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Attorneys for Plaintiff
LIBERTY MUTUAL INSURANCE COMPANY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Liberty Mutual Insurance Company,	)	Case No.: C 06 2022 SC
)	
Plaintiff,)	
)	
vs.	)	PLAINTIFF LIBERTY MUTUAL
	)	INSURANCE COMPANY'S
	)	APPLICATION FOR DEFAULT
Michael T. Blatt,	)	JUDGMENT BY COURT
)	
Defendant.	)	[Concurrently Filed With Declarations Of
	)	Michael Barnette and Melodee A. Yee and
	)	Exhibits In Support Thereof; Request For
	)	Judicial Notice; [Proposed] Order; And
	)	[Proposed] Judgment]
)	
	)	DATE: August 25, 2006
	)	TIME: 10:00 A.M.
	)	DEPT.: Ctrm 1, 17th Floor
)	

On August 25, 2006 at 10:00 a.m., or as soon thereafter as this matter may be heard by the above-entitled court, located at Ctrm 1, 17th Floor, 450 Golden State Avenue, San Francisco, CA, plaintiff Liberty Mutual Insurance Company ("Liberty") will present its application to the Court for a default judgment against defendant Michael T. Blatt. The clerk has previously entered the default of said defendant on May 3, 2006.

At the time and place of hearing, Liberty will present proof of the following matter:

1. Defendant Michael T. Blatt is not an infant or incompetent person or in military service or otherwise exempted under the Soldiers' and Sailors' Civil Relief Act of 1940.
2. Said defendant has not appeared in this action.
3. Liberty is entitled to judgment against defendant Michael T. Blatt on account of the claims pleaded in the complaint, to wit: Liberty is not and was not obligated under its policy for certain payments made in defendant's defense in an underlying action nor was Liberty obligated to pay for costs taxed against the defendant in the same underlying action. Liberty reserved its rights against the defendant with respect to these payments. As such, Liberty is entitled to recover these payments from defendant under Buss v. Superior Ct., 16 Cal.4th 35 (1997).
4. The amount of judgment sought is the sum of \$315,409.98 as set forth in the attached memorandum of points and authorities and supporting declarations concurrently filed herewith.

This motion is based on this application and attached memorandum of points and authorities, the declarations of Michael Barnette and Melodee A. Yee and request for judicial notice concurrently filed herewith, and all pleadings, files, and other records on file or that may be presented at the hearing.

DATED: July 21, 2006

PETERSON & BRADFORD LLP

By: 

Ronald J. Skocypec, Esq.

Melodee A. Yee, Esq.

Attorneys for Plaintiff

Liberty Mutual Insurance Company

MEMORANDUM OF POINTS AND AUTHORITIES**INTRODUCTION**

This action was brought in order to obtain reimbursement of defense fees and costs expended by plaintiff Liberty, on behalf of an additional insured, defendant Michael T. Blatt (hereafter referred to as "defendant" or "Blatt"), with respect to an underlying lawsuit in which various claims were made against defendant. Certain of the underlying claims against Blatt were not covered, or even potentially covered, under the provisions of the policy issued by Liberty, yet Liberty defended the entire action pursuant to Buss v. Superior Ct., 16 Cal.4th 35 (1997). In addition, in order to resolve the underlying litigation against Blatt, Liberty also paid costs and fees that were taxed against Blatt which related to damages which were neither covered nor potentially covered under the Liberty policy.

The summons and complaint in this action were properly served in this action and default was entered against Blatt on May 3, 2006. As such, Liberty brings this application for default judgment. Under Buss and related cases, Liberty is entitled to reimbursement of such fees and costs from Blatt in the amount of \$315,409.98.

STATEMENT OF FACTS

Liberty issued a commercial general liability insurance policy to Schnabel Foundation Company ("Schnabel"), policy no. TB1-131-011670-397, effective April 1, 1998 to April 1, 1999 (the "Policy"). (See Exhibit "A" to Complaint herein; Declaration

1 of Michael Barnette concurrently filed herewith ("Barnette Decl."), p. 2:8-11) Defendant
2 was named as an additional insured under the Policy, but "only with respect to liability
3 arising out of [Schnabel's] operations" (See Complaint, para. 13; Exhibit "A" to
4 Complaint, p. 72; Barnette Decl., p. 2:14-16)

5
6 In or around June 1997, defendant Blatt was the owner of the properties
7 designated as 435 and 445 Bridgeway Avenue in Sausalito, California. (Complaint,
8 para. 8) Blatt retained Schnabel to perform limited work on the property relating to the
9 development of the property. (Complaint, para. 9) The contract between Schnabel
10 and Blatt specifically excluded the following from Schnabel's scope of work: (a) layout
11 of the wall line; (b) provisions for routing drainage from behind the wall locations; (c)
12 wall finish other than rod finish; (d) excavation as required per plans; and (e) drainage
13 V-ditch behind and above the soil nail walls. (Complaint, para. 9) The project was
14 completed and sold by Blatt to James Gabbert and Michael Lincoln (the "underlying
15 plaintiffs") in or around September 1998. (Complaint, para. 9, 10) The underlying
16 plaintiffs sued Blatt in January 2002 for construction defects in the action entitled
17 Gabbert, et al. v. Michael Blatt, et al., Marin County Superior Court, case no. 020477
18 (the "Gabbert Action"). (See Exhibit "B" to Complaint) Schnabel was later named in
19 the action as a cross-defendant.

20
21 Blatt tendered his defense of the Gabbert Action to Liberty as an additional
22 insured under the Schnabel policy on March 21, 2002. (Barnette Decl., p. 2:12-14)
23 Liberty agreed to provide a defense under a reservation of rights. (Barnette Decl., p.
24 2:16-17) This reservation of rights letter specifically included Liberty's right to seek
25 reimbursement of defense fees and costs not associated with the covered or potentially
26 covered damages. (Barnette Decl., p. 2:17-23; Exhibit "1" to Barnette Decl.)
27
28

1 The underlying action was tried to decision. (Complaint, para. 17; Request for
 2 Judicial Notice concurrently filed herewith ("RJN"), Exhibits 5 and 6) Schnabel
 3 received a defense verdict. (Complaint, para. 17; RJN, Exhibit 5, pp. 6-8, 13-14, 16;
 4 Barnette Decl., p. 3:10-11) However, a judgment against defendant Blatt was entered
 5 in the amount of \$144,428.60. (See Complaint, para. 17; RJN, Exhibit 6, p. 19;
 6 Barnette Decl., p. 3:13-14) The trial court also awarded attorney fees and costs
 7 against Blatt in the amount of \$300,303.85. (See Complaint, para. 17; RJN, Exhibit 6,
 8 p. 19) Defendant paid the \$144,428.60 verdict against him. (See Complaint, para. 18;
 9 Barnette Decl., p. 3:13-14) Liberty paid the cost award of \$300,303.85 under protest in
 10 order to resolve the underlying litigation against its additional insured and pursuant to
 11 the reservation of rights to seek recovery of the amount paid. (See Complaint, para.
 12 19, Barnette Decl.; p. 3:14-19; Exhibits "1" and "4" to Barnette Decl.)

13
 14 I
 15 **LIBERTY IS ENTITLED TO RECOVER CERTAIN FEES**
 16 **AND COSTS FROM DEFENDANT**

17
 18
 19 A. Liberty Is Entitled To Reimbursement Of The Fees And Costs Awarded
 20 Against Defendant.

21 Liberty's obligations to Blatt under the Policy are limited by the terms of the
 22 additional insured endorsement. That endorsement provides that Blatt was an
 23 additional insured under the Policy, but "only with respect to liability arising out of
 24 [Schnabel's] operations" (See Complaint, para. 13; Exhibit "A" to Complaint, p.
 25 72) Thus, Liberty had no obligations to Blatt under the Policy with respect to liability
 26 unrelated to Schnabel's operations. In light of the defense verdict pertaining to
 27 Schnabel in the underlying action, it is clear that the trier of fact found no liability
 28

1 relating to Schnabel's operations. (RJN, Exhibit 5, pp. 6-8, 13-14, 16) As such, Liberty
2 clearly had no duties under the Policy to Blatt after the verdict. Montrose Chemical
3 Corp. v. Superior Ct., 6 Cal.4th 287, 295 (1993) (defense duty arises upon tender of
4 potentially covered claim and continues until the underlying action is concluded or until
5 it has been shown that there is no potential for coverage). Since the defense verdict
6 eliminated further potential coverage, Liberty was not obligated to pay the \$300,303.85
7 in costs and fees taxed against Blatt in favor of the underlying plaintiffs as the
8 prevailing parties. Liberty did so under a reservation of rights, including the right to
9 seek reimbursement, in order to resolve the underlying litigation. (Barnette Decl., p.
10 3:14-19)

11
12 In Buss, the California Supreme Court held that, "[a]s to the claims that are not
13 even potentially covered, however, the insurer may indeed seek reimbursement for
14 defense costs." 16 Cal.4th at 50. "'California law clearly allows insurers to be
15 reimbursed for attorney's fees' and other expenses 'paid in defending insureds against
16 claims for which there was no obligation to defend.'" Id. at 51, citation omitted. The
17 California Supreme Court explained:

18
19 "Under the policy, the insurer does not have a duty to defend
20 the insured as to the claims that are not even potentially
21 covered. With regard to defense costs for these claims, the
22 insurer has not been paid premiums by the insured. It did not
23 bargain to bear these costs. To attempt to shift them would
24 not upset the arrangement. [Citation.] The insurer therefore
25 has a right of reimbursement that is implied in law as quasi-
26 contractual, whether or not it has one that is implied in fact in
27 the policy as contractual. . . . As stated, under the law of
28 restitution such a right runs against the person who benefits

1 from 'unjust enrichment' and in favor of the person who
2 suffers loss thereby. The 'enrichment' of the insured by the
3 insurer through the insurer's bearing of unbargained-for
4 defense costs is inconsistent with the insurer's freedom
5 under the policy and therefore must be deemed 'unjust.'" Id.

6
7 Further, "an insurer, having reserved its right to do so, may obtain
8 reimbursement of defense costs which, in hindsight, it never owed." Scottsdale Ins.
9 Co. v. MV Transportation, 36 Cal.4th 643, 657 (2005). Thus, under Buss and its
10 progeny, an insurer can seek reimbursement of "defense costs that can be allocated
11 solely to the claims that are not even potentially covered." Buss, 16 Cal.4th at 53.
12 Costs and fees taxed against an insured are considered a function of defense costs.
13 Prichard v. Liberty Mutual Ins. Co., 84 Cal.App.4th 890, 912 (2000). In light of the
14 defense verdict and judgment rendered in Schnabel's favor, there was no actual or
15 potential coverage available to Blatt under the terms of the Policy. Because the costs
16 and fees taxed against Blatt do not relate to any claims of damage covered or
17 potentially covered under the Policy and post-date the defense verdict, Liberty is
18 entitled to reimbursement of the \$300,303.85 it paid on Blatt's behalf under a
19 reservation of rights.

20
21 B. Liberty Is Entitled To Reimbursement Of Defense Fees And Costs Which
22 Are Attributable Solely To Claims That Are Not Even Potentially Covered.

23
24 Liberty paid a total of \$198,345.11 in attorney's fees and costs in the defense of
25 Blatt in the underlying Gabbert Action. (Barnette Decl., pp. 2:28-3:1; Exhibit "3" to
26 Barnette Decl.) Pursuant to the same analysis as above, Liberty is also entitled to
27 reimbursement of any and all defense fees and costs incurred in defending Blatt in the
28 underlying action which can be allocated solely to claims which are not even potentially

covered. The underlying complaint alleged claims for breach of contract, negligence, fraud, negligent misrepresentation, concealment of material facts and breach of implied warranty against defendant. (See Complaint, para. 10; Exhibit "B" to Complaint)

An insurer does not have a duty to prosecute a cross-complaint on behalf of its insured because the claims set forth therein could not possibly result in covered damages against the insured, even if the claims alleged by the insured in the cross-complaint are factually related to the claims against the insured. James 3 Corp. v. Truck Ins. Exchange, 91 Cal.App.4th 1093, 1104-05 (2001). Thus, those billing entries which solely relate to the prosecution of Blatt's cross-complaint are not even potentially covered under the Liberty policy. The total amount of fees solely allocable to the prosecution of Blatt's cross-complaint is \$688.50.¹ (Declaration of Melodee A. Yee concurrently filed herewith ("Yee Decl."), para. 2)

Similarly, an insurer is not obligated to fund the insured's attempts to obtain insurance coverage as such fees are not incurred in the defense of any "suit" seeking "bodily injury" or "property damage." (Exhibit "A" to Complaint, p. 85) The sum of \$1,296.00 was incurred in pursuing insurance for Blatt in the Gabbert Action.² (Yee Decl., para. 3)

¹ The entries relating to Blatt's cross-complaint are located on pages 11-14 of Exhibit "2" to the Barnette Declaration and are indicated by a single underline.

² The entries relating to obtaining insurance on Blatt's behalf are located on pages 13-17, 21, 23, and 27-29 of Exhibit "2" to the Barnette Declaration and are indicated by a double underline. Certain of these items reference "Rand Chritton," who was the coverage attorney for Oregon Mutual, and thus were related to Blatt's attempt to obtain coverage for The Gabbert Action. (Barnette Decl., p. 3:6-9)

1 The defense verdict against Schnabel was rendered on February 27, 2004.
 2 (RJN, Exhibit 5; Barnette Decl., p. 3:10-11) Because the Policy provided coverage to
 3 Blatt only for liability arising out of Schnabel's operations, the jury's verdict cut off any
 4 further potential for coverage for Blatt under the Policy. The attorneys' fees and costs
 5 incurred after February 27, 2004 total \$13,121.63.³ (Yee Decl., para. 4)

6
 7 In sum, of the total attorneys' fees and costs incurred in Blatt's defense, Liberty
 8 is entitled to reimbursement of \$15,106.13 of these fees and costs from Blatt. These
 9 items were never potentially covered. See Scottsdale, 36 Cal.4th at 657.

10
 11 **CONCLUSION**

12
 13 Based on the foregoing, Liberty respectfully requests that this application be
 14 granted and a default judgment be entered in its favor and against defendant Michael
 15 T. Blatt in the total amount of **\$315,409.98**, representing \$300,303.85 paid as
 16 supplementary payments and \$15,106.13 paid in the defense of claims which were
 17 never potentially covered under the Policy.

18
 19 DATED: July 21, 2006

PETERSON & BRADFORD, LLP

20
 21 By: 

22 Ronald J. Skocypec, Esq.
 23 Melodee A. Yee, Esq.

24 Attorneys for Plaintiff
 25 Liberty Mutual Insurance Company

26
 27 ³ These entries relating to post-verdict fees and costs are located on pages 46-
 28 49, 51-53, and 55-56 of Exhibit "2" to Barnette Declaration and are circled.

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8 Attorneys for Plaintiff
9 LIBERTY MUTUAL INSURANCE COMPANY

10
11 IN THE UNITED STATES DISTRICT COURT
12
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14
15 SAN FRANCISCO DIVISION

16 Liberty Mutual Insurance Company,

17 Plaintiff,

18 vs.

19 Michael T. Blatt,

20 Defendant.

) Case No.: C 06 2022 SC

)
) **DECLARATION OF MELODEE A. YEE**
) **IN SUPPORT OF LIBERTY MUTUAL**
) **INSURANCE COMPANY'S**
) **APPLICATION FOR DEFAULT**
) **JUDGMENT BY COURT**

)
) [Concurrently Filed With Application For
) Default Judgment By Court; Declaration Of
) Michael Barnette; Request For Judicial Notice;
) [Proposed] Order And [Proposed] Judgment]

)
) DATE: August 25, 2006
) TIME: 10:00 A.M.
) DEPT.: Ctrm 1, 17th Floor
)
)
)
)

21
22
23 I, Melodee A. Yee, declare:

24 I am an attorney licensed to practice before the United States District Court for
25 the Northern District of California, all courts in the State of California and am a member
26 of the law firm of Peterson and Bradford, LLP, attorneys of record for plaintiff Liberty
27 Mutual Insurance Company ("Liberty") in the instant action. This declaration is filed in
28

1 support of Liberty's application for default judgment against defendant Michael Blatt. I
2 have personal knowledge of the facts stated herein. If called and sworn as a witness, I
3 could and would competently testify to the following:

4
5 1. I have spent significant time reviewing and analyzing the attorney billings
6 relating to the defense of Michael Blatt in the suit entitled Gabbert v. Michael Blatt, et
7 al., Marin County Superior Court, case no. 020477 (the "Gabbert Action"). In
8 reviewing these billing invoices, I have located the following charges which Liberty
9 contends are not covered under its policy and which Liberty seeks reimbursement from
10 defendant Blatt under Buss v. Superior Ct., 16 Cal.4th 35 (1997) and Scottsdale Ins.
11 Co. v. MV Transportation, 36 Cal. 4th 643 (2005).

12
13 2. On the billing summary titled "Detail Slip Listing" dated July 9, 2003,
14 attached as Exhibit "2" to the concurrently filed declaration of Michael Barnette, at
15 pages 11-14, there are a total of eight (8) listings, totaling \$688.50, which reference
16 legal work solely attributable to the pursuit of defendant Michael Blatt's cross-complaint
17 in the Gabbert Action. These defense fees are marked by a single underline.

18
19 3. On the billing summary titled "Detail Slip Listing" dated July 9, 2003,
20 attached as Exhibit "2" to the concurrently filed declaration of Michael Barnette, at
21 pages 13-17, 21, 23, and 27-29, there are a total of seventeen (17) listings, totaling
22 \$1296.00, which reference legal work solely attributable to defendant Michael Blatt's
23 pursuit of insurance coverage for the Gabbert Action. These defense fees are marked
24 by a double underline.


25
26 4. On the billing statements dated March 1, 2004 though July 16, 2004,
27 attached as Exhibit "2" to the concurrently filed declaration of Michael Barnette, at
28

1 pages 46-49, 51-53, and 55-56, there are numerous entries, totaling \$13,121.63, which
2 reference legal work performed after February 28, 2004, after the defense verdict was
3 issued in Schnabel's favor in the Gabbert Action. These defense fees are circled.

4
5 5. A few redactions on these bills were made out of an abundance of caution
6 in order to protect any attorney-client privilege which may exist with respect to these
7 bills in compliance with Clarke v. American Commerce National Bank (9th Cir. 1992)
8 974 F.2d 127, 129.

9
10 6. Defendant Michael Blatt was properly served in this action yet has not
11 appeared in this action. At no time has our office been contacted by Mr. Blatt or a
12 representative of Mr. Blatt during the pendency of this declaratory relief action.

13
14 I declare under the laws of the United States of America, that the foregoing is
15 true and correct and that this declaration was executed on July 21, 2006, in Burbank,
16 California.

17
18 
19 MELODEE A. YEE
20
21
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25
26
27
28

Ronald J. Skocypec, Esq., Bar No.: 072690
Melodee A. Yee, Esq., Bar No.: 168541
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Attorneys for Plaintiff
LIBERTY MUTUAL INSURANCE COMPANY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

Liberty Mutual Insurance Company,

Plaintiff,

vs.

Michael T. Blatt,

Defendant.

) Case No.: C 06 2022 SC

)
) **DECLARATION OF MICHAEL**
) **BARNETTE IN SUPPORT OF LIBERTY**
) **MUTUAL INSURANCE COMPANY'S**
) **APPLICATION FOR DEFAULT**
) **JUDGMENT BY COURT;**

) **EXHIBITS**

)
) [Concurrently Filed With Application For
) Default Judgment By Court; Declaration
) Of Melodee A. Yee; Request for Judicial
) Notice; [Proposed] Order; and [Proposed]
) Judgment]

)
) DATE: August 25, 2006
) TIME: 10:00 A.M.
) DEPT.: Ctrm 1, 17th Floor
)
)

I, Michael Barnette, declare:

I am a Senior Technical Claim Specialist for Liberty Mutual Insurance Company ("Liberty"). This declaration is filed in support of Liberty's application for default judgment against defendant Michael Blatt. I have personal knowledge of the facts

1 stated herein. If called and sworn as a witness, I could and would testify competently to
2 the following:

3 1. I was the claims person for Liberty primarily responsible for the handling of
4 the underlying lawsuit entitled Gabbert, et al. v. Michael Blatt, et al., Marin County
5 Superior Court, case no. 020477 (the "Gabbert Action"). I am also currently the claims
6 person responsible for the handling the instant declaratory relief action on behalf of
7 Liberty.

8 2. Liberty issued a policy of commercial general liability insurance to named
9 insured Schnabel Foundation Company ("Schnabel") as policy no. TB1-131-011670-
10 397, effective April 1, 1998 to April 1, 1999. A true and correct copy of that policy is
11 attached as Exhibit "A" to the Complaint filed in the instant action.

12 3. Michael Blatt ("Blatt") was named as a defendant in the Gabbert Action
13 and tendered his defense in the Gabbert Action to Liberty in or about March 21, 2002 as
14 an additional insured under the Schnabel policy. The additional insured endorsement to
15 the Schnabel policy provides that Blatt was an additional insured under the policy but
16 "only with respect to liability arising out of [Schnabel's] operations." Liberty agreed to
17 defend Blatt subject to a reservation of rights. This reservation of rights letter stated, in
18 relevant part, "We may withdraw our defense of this case if it is determined that the
19 damages in question are not covered under the terms of our policy Our defense
20 obligation is triggered only by allegations of 'property damage' arising out of our named
21 insured's work. We specifically reserve the right to seek allocation and/or
22 reimbursement of any defense costs not associated with those allegations." A true and
23 correct copy of this reservation of rights letter is attached hereto as Exhibit "1."

24 4. At the time of tender, Blatt had already retained attorney Ronald D.
25 Foreman to defend his interests in the Gabbert Action. Liberty agreed to allow attorney
26 Foreman to continue to represent Blatt.

27 5. Attorney Foreman forwarded his invoices with respect to the Gabbert
28 Action directly to me on behalf of Liberty for payment. Liberty paid a total of

1 \$198,345.11 in the defense of Blatt in the Gabbert Action. True and correct copies of
2 the relevant defense bills, with certain redactions, are attached hereto as Exhibit "2."
3 The items sought to be reimbursed from Blatt are marked. True and correct copies of
4 Liberty's payment screens reflecting the total defense fees and costs paid are attached
5 hereto as Exhibit "3."

6 6. Blatt also was defended in the Gabbert Action as an additional insured
7 under a policy issued to Harold Bray Construction by Oregon Mutual Insurance
8 Company for a certain amount of time. Rand Chritton, Esq. was the attorney handling
9 this matter on behalf of Oregon Mutual Insurance Company.

10 7. The verdicts in the Gabbert Action were entered on February 27, 2004. A
11 defense verdict was obtained by Schnabel, Liberty's named insured. In contrast, a
12 verdict was rendered against Blatt.

13 8. After the judgment was rendered in the Gabbert Action, Blatt personally
14 paid the judgment against him in the amount of \$144,428.60. The plaintiffs in the
15 Gabbert Action demanded that Liberty and/or Blatt pay the award of fees and costs of
16 \$300,303.85 taxed against Blatt and threatened to execute on Blatt's real property in
17 order to satisfy this portion of the judgment. Liberty, under a reservation of rights,
18 agreed to pay the \$300,303.85 on Blatt's behalf and then to pursue reimbursement of
19 this amount directly from Blatt in a subsequent proceeding. True and correct copies of
20 the payment documents relating to this post-verdict payment are attached hereto as
21 Exhibit "4."

22 9. I have personally met defendant Michael Blatt in connection with the
23 underlying Gabbert Action and know him to be an adult. I estimate that he is
24 approximately sixty years old. I am aware that he has many years of experience as a
25 real estate developer.

26 ///

27 ///

28 ///

1 I declare under the laws of the United States of America, that the foregoing is
2 true and correct and that this declaration was executed on July 19, 2006, in
3 Pleasanton, California.

4
5 
6 MICHAEL BARNETTE



Liberty Mutual Group

P.O. Box 9118
Pleasanton, CA 94566
(925) 734-9200
(800) 676-6514
Fax: (925) 734-0916

September 4, 2002

Ronald Foreman
Foreman & Brasso
807 Montgomery Street
San Francisco, CA 94133

RE: Gabbert v. Blatt
Liberty Mutual Insured: Schnabel Foundation Co.
Our File No.: P602-070876-01
Our Insured Job No.: 9-2476, 435-445 & 476 Bridgeway, Sausalito, CA

Dear Mr. Foreman:

This responds to your firm's letters to us in which you tendered the defense and indemnity of your client, Michael Blatt, as an additional insured under our policy for Schnabel Foundation Co., in the above action.

We have reviewed the subcontract and the certificates of insurance that you provided, and because the correspondence in this case can be read as alleging "property damage" to which our policy would potentially apply, we will agree to share in the defense of Michael Blatt, together with all other carriers with potentially applicable coverage, as an additional insured for the period of 4/1/97 to 4/1/98. Liberty Mutual will share in the defense and indemnity of Michael Blatt in this action, pursuant to the terms and conditions set forth below.

We will pay for any defense costs and expenses as they relate to the defense of work performed on behalf of our named insured only. We will not pay for any other work, or time spent by your firm on behalf of any other subcontractor. We will pay for defense costs and expenses from the date of tender. We will pay \$125.00 per hour for attorney fees and \$65.00 per hour for paralegal work. This is in accordance with Civil Code Section 2860, Section C (2). If any other insurance carrier for Schnabel Foundation Co. also agrees to participate in the defense, we will share Schnabel Foundation's proportionate share with the co-carriers. We will only pay for property damage to other property arising out of the named insured's work.

Please advise as to the following:

- 1) Does your client have their own insurance that would also apply to this loss?
- 2) Is your client entitled to contractual indemnity from any other subcontractors?
- 3) Have you tendered your client's defense and indemnity to any other carriers on behalf of our named insured, Schnabel Foundation Co. ?
- 4) Please provide us with your proposed cost sharing allocation, a copy of your fees and costs to date, and your estimated future fees and costs.

Please allow this to clarify our position with regard to your policy coverage concerning this lawsuit. Your policy does not provide coverage for your work or your product, fraud, breach of contract, failure to perform; nor does it provide coverage for damages which occur outside your policy period with Liberty Mutual. This insurance applies only to bodily injury or property damage which occurs during the policy period. The bodily injury or property damage must be caused by an occurrence.

Please note the applicable parts of the insuring agreement. They read as follows:

Section 1 - Coverage's

Coverage a. Bodily injury and property damage liability.

1. Insuring agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of bodily injury or property damage to which this insurance applies. We will have the right and duty to defend any suit seeking those damages. We may at our discretion investigate any occurrence and settle any claim or suit that may result but:

- (1) The amount we will pay for damages is limited as described in Section 3 Limits of insurance; and
- (2) Our right and duty to defend when we have used up the applicable limits of insurance in the payment of judgements or settlements under coverage's A or B or medical expenses under coverage C.

Your policy defines "occurrence" as ;

"An accident including continuous and repeated exposure to substantially the same general harmful conditions."

Additionally, the policy specifically excludes the following:

This insurance does not apply to:

- (k) "Property damage" to "your product" arising out of it or any part of it.
- (l) Property damage to "your work" arising out of it or any part of it included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or work out of which the damage arises was performed on your behalf by a subcontractor.

- (m) "Property damage" to "impaired property" or property that has not been physically injured, arising out of:
 - (1) A defective, deficiency inadequacy or dangerous condition in "your product" or "your work"; or.
 - (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of the other property arising out of sudden or accidental physical injury to "your product" or "your work" after it has been put to its intended use.

- (n) Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdraw, recall, inspection, repair, replacement, adjustment, removal or disposal of;

- (1) "Your product"
- (2) "Your work" or
- (3) "Impaired property";

if such product, work, or properties withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

The policy defines "property damage" to mean:

- (a) Physical injury to tangible property, including all resulting loss of use

of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- (b) Loss of use of tangible property that is not physically injured. All such loss shall be deemed to occur at the time of the occurrence that caused it.

The policy defines "your product" to mean:

- (a) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have required; and
- (b) Containers (other than vehicles), materials, parts, or equipment furnished in connection with such goods or products.

"Your product" includes warranties or representations made at anytime with respect to the fitness, quality, durability, performance or use of "your product"; and the providing of or failure to provide warnings or instructions.

The policy defines "your work" to mean:

- (a) Work or operations performed by you or on your behalf; and
- (b) Materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes warranties or representations made at anytime with respect to the fitness, quality, durability, performance or use of "your work"; and the providing of or failure to provide warnings or instructions.

The policy defines "impaired property" to mean tangible property, other than "your product" or "your work" that cannot be used or is less useful because:

- (a) It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

(b) You have failed to fulfill the terms of the contract or agreement;

If such property can be restored to use by:

(a) The repair, replacement, adjustment or removal of "your product" or "your work"; or

(b) Your fulfilling the terms of the contract or agreement.

Your policy includes coverage for damages because of "bodily injury," defined as "bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time."

Your policy excludes coverage for "bodily injury" or "property damage" expected or intended from the standpoint of the insured.

Based upon the insuring agreement, the exclusions and the definitions, the coverage indemnification available to you is for consequential damage to the plaintiff's property and bodily injury as defined in your policy and caused by an occurrence. You do not have coverage for repair or replacement of your work or your work product. Further, with exceptions of certain assumptions of liability under "insured contract" defined in your policy, there is no coverage for damages claimed as a result of breach of contract.

In the above mentioned action the plaintiffs make a claim for punitive damages. Liberty Mutual policies do have coverage for such damages; however, the state of California, in the case of City Product Corporation vs Globe Indemnity (88 Cal App 3d 31, 151 Cal. Rptr 494 [1979]) expresses a public policy that precludes an insurance company from paying punitive damages awards. Therefore, Liberty Mutual's policy would not provide coverage for this type of damages. You may wish to retain separate counsel to represent your interests against punitive damages.

We may withdraw our defense of this case if it is determined that the damages in question are not covered under the terms of our policy and if the evidence concludes that damages as they relate to the insured's work occurred outside your coverage period with Liberty Mutual.

Our defense obligation is triggered only by allegations of "property damage" arising out of our named insured's work. We specifically reserve the right to seek allocation and/or reimbursement of any defense costs not associated with those allegations.

Should you have any questions regarding our position please do not hesitate to call me at the above number.

Sincerely,
LIBERTY MUTUAL INSURANCE CO.

Michael Barnette
Sr. Technical Claims Specialist

cc Ronald Chapman - Schnabel Foundation Co.

Date: 7/9/03

FOREMAN & BRASSO

Time 1:04 pm Case 4:06-cv-02022-CW

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For time: s=spent u=unbillable e=estimated v=variance

Time
 JH: Fieker
 RF: Ron
 AH: LAUdark

Date / Start Time	User	Client	Rate	Time	Total
Description	Slip#	Activity	Level		
4/25/02	6030	JH	135.00	0.40s	54.00
Meeting with attorney		BLATT, MICHAEL	4		
Foreman re: answer and		Meeting			
cross-complaint		BILLED: #10431			
4/29/02	6044	JH	135.00	5.50s	742.50
Legal research re:		BLATT, MICHAEL	4		
affirmative defenses; Revise		Legal research			
answer; Review file for		BILLED: #10431			
cross-complaint; Conduct					
legal research re:					
allegations for					
cross-complaint; Revise					
cross-complaint					
4/30/02	6045	JH	135.00	0.40s	54.00
Draft special interrogatories		BLATT, MICHAEL	4		
		Draft			
		BILLED: #10431			
5/21/02	6092	JH	135.00	0.20s	27.00
Phone conference with Ron		BLATT, MICHAEL	4		
Foreman re: amended		Conference			
cross-complaint; Phone		BILLED: #10431			
conference with client re:					
same					
5/23/02	6093	JH	135.00	1.50s	202.50
Draft First Amended		BLATT, MICHAEL	4		
Cross-complaint		Draft			
		BILLED: #10431			
5/24/02	6094	JH	135.00	0.30s	40.50
Draft cover letter to client		BLATT, MICHAEL	4		
re: cross-complaint		Draft			

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For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6094	cont.			
	BILLED: #10431			
.....6095		135.00	0.30s	<u>40.50</u>
5/31/02	JH	4		
Left message for opposing	BLATT, MICHAEL			
counsel re: cross-complaint;	Miscellaneous			
Phone conference with				
opposing counsel re: same	BILLED: #10431			
.....6096		135.00	0.40s	<u>54.00</u>
6/9/02	JH	4		
Draft status conference	BLATT, MICHAEL			
questionnaire	Draft			
	BILLED: #10431			
.....6097		135.00	1.50s	<u>202.50</u>
6/14/02	JH	4		
Draft letter to opposing	BLATT, MICHAEL			
counsel re: amended	Draft			
cross-complaint; review and				
revise stipulation re:	BILLED: #10431			
cross-complaint				
.....6103		135.00	0.20s	<u>27.00</u>
5/17/02	JH	4		
Phone conference with Ron	BLATT, MICHAEL			
Foreman re: amended complaint	Conference			
	BILLED: #10431			
.....6199		135.00	3.50s	<u>472.50</u>
6/18/02 - 6/13/03	AH3	3		
Status Conference, file and	BLATT, MICHAEL		3.50e	
serve notice of entry of	Miscellaneous		0.00v	
order and first amended				
complaint	BILLED: #10431			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6201		135.00	0.40s	54.00
6/23/02	JH	4		
Answer Kane cross-complaint;	BLATT, MICHAEL			
	Prepare			
	BILLED: #10431			
.....6222		135.00	0.25s	33.75
7/2/02	JH	4		
Review letter from Harris	BLATT, MICHAEL			
re: mediation	Review			
	BILLED: #10431			
.....6226		135.00	0.30s	40.50
7/10/02	JH	4		
Receipt and review of	BLATT, MICHAEL			
message from counsel for	Receipt			
Travis Builders; Phone				
conference with	BILLED: #10431			
representative from				
insurance carrier for Travis				
Builders re: extension of				
time to answer				
cross-complaint				
.....6236		135.00	0.20s	<u>27.00</u>
7/22/02	JH	4		
Receipt and review of voice	BLATT, MICHAEL			
mail from insurance company	Receipt			
from Bray	BILLED: #10431			
.....6240		135.00	0.20s	<u>27.00</u>
7/26/02	JH	4		
Review letter from attorney	BLATT, MICHAEL			
for Bray re: extension of	Review			
time to answer	BILLED: #10431			
.....6244		135.00	0.40s	54.00
8/2/02	JH	4		
Receipt and review of letter	BLATT, MICHAEL			
from counsel for Bray	Receipt			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6244 cont.				
construction; Instruct				
secretary re: copying; Draft	BILLED: #10431			
response letter				
.....6245		135.00	0.30s	<u>40.50</u>
8/5/02	JH	4		
Phone conference from	BLATT, MICHAEL			
counsel for Travis Builders	Conference			
re: extension of time to				
answer cross-complaint	BILLED: #10431			
.....6246		135.00	0.80s	<u>108.00</u>
8/6/02	JH	4		
Review status of	BLATT, MICHAEL			
cross-defendants answers;	Review			
Draft memo to Ron re: same;				
Phone conference with Wheels	BILLED: #10431			
of Justice re: serving				
Quality				
.....6272		135.00	0.40s	54.00
8/20/02	JH	4		
Receipt and review of voice	BLATT, MICHAEL			
mail from Dan Schrader,	Receipt			
attorney for Travis Builders				
re: status of case; Phone	BILLED: #10431			
conference with Schrader re:				
status of case				
.....6273		135.00	0.80s	108.00
8/21/02	JH	4		
Instruct secretary re:	BLATT, MICHAEL			
copying complaint; Draft	Miscellaneous			
cover letter to Schrader re:				
complaint; Receipt and	BILLED: #10431			
review of letter re: meet				
and confer for case				
management				
.....6285		135.00	0.60s	<u>81.00</u>
3/21/02	RDF4	5		
Letter to insurance	BLATT, MICHAEL			
companies to obtain coverage	Letter			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6285 cont.				
(Oregon Mutual, Lexington Insurance)	BILLED: #10431			
.....6286		135.00	0.50s	67.50
3/25/02	RDF4	5		
Letter from Haig Harris re: Peter Kane and his facts of joint venture and letter form Al Anolik on joint venture	BLATT, MICHAEL Letter BILLED: #10431			
.....6287		135.00	0.80s	108.00
3/27/02	RDF4	5		
Re draft stipulation of facts for Peter Kane and letters from Haig Harris	BLATT, MICHAEL Draft BILLED: #10431			
.....6288		135.00	0.40s	<u>54.00</u>
4/4/02	RDF4	5		
Fax letter from Zurich denying insurance coverage	BLATT, MICHAEL Miscellaneous BILLED: #10431			
.....6289		135.00	0.20s	<u>27.00</u>
4/4/02	RDF4	5		
Letter from Appollo Insurance re: coverage	BLATT, MICHAEL Letter BILLED: #10431			
.....6290		135.00	0.40s	<u>54.00</u>
4/8/02	RDF4	5		
Follow-up of denial letter from Zurich Insurance Company	BLATT, MICHAEL Miscellaneous BILLED: #10431			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6291		135.00	0.50s	67.50
4/9/02	RDF4	5		
Further work on the Peter Kane Stipulation; letters and phone calls (4/9/02 to 4/12/02)	BLATT, MICHAEL Prepare BILLED: #10431			
.....6292		135.00	0.40s	54.00
4/23/02	RDF4	5		
Letter from AIG Insurance and Hammond Construction	BLATT, MICHAEL Letter BILLED: #10431			
.....6293		135.00	0.20s	<u>27.00</u>
5/11/02	RDF4	5		
Letter from Liberty Mutual Insurance Company	BLATT, MICHAEL Letter BILLED: #10431			
.....6294		135.00	0.20s	27.00
5/11/02	RDF4	5		
Letter to Haig Harris re: Peter Kane fax and facts of the case	BLATT, MICHAEL Letter BILLED: #10431			
.....6295		135.00	0.20s	27.00
5/20/02	RDF4	5		
Call to Neil Turner re: Peter Kane	BLATT, MICHAEL Telephone call BILLED: #10431			
.....6296		135.00	0.40s	54.00
6/4/02	RDF4	5		
Letter to Al Anolik re: Peter Kane as joint venture and sanction	BLATT, MICHAEL Letter BILLED: #10431			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6297		135.00	0.20s	27.00
6/11/02	RDF4	5		
Fax letter to Mike re:	BLATT, MICHAEL			
	Letter			
including June 7, 2002				
letter from Anolik	BILLED: #10431			
.....6299		135.00	0.40s	<u>54.00</u>
4/18/02	RDF4	5		
Follow-up letters from	BLATT, MICHAEL			
Oregon Mutal Insurance	Miscellaneous			
	BILLED: #10431			
.....6302		135.00	0.50s	67.50
8/23/02	RDF4	5		
Compare 9/12/01 letter of	BLATT, MICHAEL			
Doug Ferguson with 8/14/01	Prepare			
letter of Quality Customs &				
Mechanical re: leaks, ect.	BILLED: #10431			
.....6306		135.00	2.00s	270.00
8/23/02	RDF4	5		
Review discovery responses	BLATT, MICHAEL			
of Lincoln and Blatt; Review	Review			
disc of photos,				
correspondence between the	BILLED: #10431			
parties, 1000 pages of				
documents				
.....6307		135.00	1.50s	202.50
4/28/02	RDF4	5		
Legal research into express	BLATT, MICHAEL			
and equitable	Legal research			
indemnification rights,				
corporation indemnification	BILLED: #10431			
and corporate status report				
with Secretary of State				
.....6309		135.00	2.00s	270.00
8/26/02	RDF4	5		
Watch videos of 435-445	BLATT, MICHAEL			
Bridgeway	Miscellaneous			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6309	cont. BILLED: #10431			
.....6310		135.00	2.50s	337.50
8/27/02	RDF4	5		
Review of Travis Builders documents, create index for the 14 volumes of bates stamp # 0001 to # 4117; telephone call to Mike	BLATT, MICHAEL Review BILLED: #10431			
.....6311		135.00	4.50s	607.50
8/26/02	JH	4		
Draft letter to Lavinsky re: mediator; Draft fax cover sheets to other opposing counsel; Receipt and review of answer from Travis Builders, Inc.; Update memo to Ronald Foreman re: status of cross-defendants; Phone conference with client and Ronald Foreman re: status of case; Draft letter to Iversen re: answering cross-complaint; Draft form interrogatories to Gabbert and Lincoln; Draft request for production of documents to Gabbert and Lincoln	BLATT, MICHAEL Draft BILLED: #10431			
.....6312		135.00	2.20s	297.00
8/27/02	JH	4		
Draft special interrogatories to Gabbert and Lincoln; Review discovery responses from Gabbert & Lincoln to Kane's discovery requests; Receipt and review of letter from Schrader re: request for copies of all pleadings; Draft confirming to Anolik re: mediation	BLATT, MICHAEL Draft BILLED: #10431			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6313		135.00	3.20s	432.00
8/28/02	JH	4		
Revise letter to Anolik re:	BLATT, MICHAEL			
ADR; Meeting with Ron	Revise			
Foreman re: discovery;				
Revise special	BILLED: #10431			
interrogatories; Draft				
notice of deposition for				
Gabbert and Lincoln				
.....6314		135.00	5.50s	742.50
8/29/02	JH	4		
Revise notice of deposition	BLATT, MICHAEL			
to Gabbert and Lincoln;	Revise			
Revise special				
interrogatories and request	BILLED: #10431			
for production of documents;				
Receipt and review				
correspondence form Harris				
re: mediation				
.....6344		135.00	0.30s	40.50
9/6/02	JH	4		
Receipt and review of voice	BLATT, MICHAEL			
mail from Jeff's welding's	Receipt			
attorney; Returned call;				
Receipt and review of letter	BILLED: #10448			
from Jolly re: pleadings				
.....6373		135.00	0.50s	67.50
9/9/02	JH	4		
Draft case management	BLATT, MICHAEL			
statement; Phone conference	Draft			
with Mr. Jolly re: answer				
	BILLED: #10448			
.....6375		135.00	0.40s	54.00
9/11/02	JH	4		
Receipt and review of	BLATT, MICHAEL			
message from Bob Jolly re:	Receipt			
mutual release; Phone				
conference with Bob Jolly	BILLED: #10448			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6415		135.00	0.20s	27.00
9/16/02	JH	4		
Review case management	BLATT, MICHAEL			
questionnaire from Harold	Review			
Bray				
	BILLED: #10448			
.....6418		135.00	0.50s	67.50
9/17/02	JH	4		
Conference with Ron Foreman	BLATT, MICHAEL			
re: status conference;	Conference			
Review correspondence from				
Jeff's Weldings attorney re:	BILLED: #10448			
release				
.....6419		135.00	0.30s	40.50
9/18/02	JH	4		
Receipt and review of Jeff's	BLATT, MICHAEL			
Welding's answer and	Receipt			
cross-complaint; Review				
status conference statement	BILLED: #10448			
.....6444		135.00	1.10s	148.50
9/30/02	JH	4		
Receipt and review of voice	BLATT, MICHAEL			
mail from Lavinsky re:	Receipt			
discovery extension; Respond				
to voice mail; Receipt and	BILLED: #10448			
review of letter from				
insurance company for				
Quality Customs; Phone				
conference with insurance				
company for Quality Customs;				
L.R. re: serving Schnabel as				
a Roe defendant; Draft Marin				
County Form re: amending				
complaint; Draft amended				
summons				
.....6448		135.00	0.25s	33.75
10/1/02	JH	4		
Phone conference with	BLATT, MICHAEL			
insurance adjuster for	Conference			
Quality re: facts of the case				
	BILLED: #10448			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6448	cont.			
.....6464	9/9/02 RDF4	135.00 5	2.50s	337.50
Call to Mike re: videotapes; Revise the letter to the Oregon Mutual Insurance company; Read new case law on additional insured	BLATT, MICHAEL Telephone call BILLED: #10448			
.....6465	9/3/02 RDF4	135.00 5	3.00s	405.00
Call to Haig Harris: Review of Travis Builder's Report re: Repo work- videotape #1 insurance videotape	BLATT, MICHAEL Telephone call BILLED: #10448			
.....6467	9/18/02 RDF4	135.00 5	2.50s	337.50
Court appearance; Meet with all counsel and negotiate the Jeffs Welding deal; Stipulated to bring Daniel P. Schrader	BLATT, MICHAEL Appearance BILLED: #10448			
.....6468	9/5/02 RDF4	135.00 5	3.00s	<u>405.00</u>
Review insurance coverage on Oregon Mutual re: Harold Bray legal research	BLATT, MICHAEL Review BILLED: #10448			
.....6471	10/4/02 JH	135.00 4	0.20s	27.00
Receipt and review of cross-complaint from Travis Builders	BLATT, MICHAEL Receipt BILLED: #10448			
.....6477	9/25/02 JH	135.00 4	0.40s	54.00
Phone conference with Ron Foreman and client re:	BLATT, MICHAEL Conference			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6477 cont.				
discovery				
	BILLED: #10448			
.....6491		135.00	0.50s	67.50
10/7/02	JH	4		
Phone conference with client	BLATT, MICHAEL			
re: discovery; Receipt and	Conference			
review of Gabbert and				
Lincoln's answer to Jeff	BILLED: #10448			
Welding's cross-complaint;				
Receipt and review of Kane's				
responses to discovery				
.....6493		135.00	6.50s	877.50
10/8/02	JH	4		
responses; Review discovery	BLATT, MICHAEL			
requests; Review client	Meeting			
documents; Review complaint;				
Add objections to responses	BILLED: #10448			
to request for production of				
documents; Review Gabbert				
and Lincoln's discovery				
responses; Meeting with				
client re: discovery				
responses; draft form				
interrogatory responses				
.....6495		135.00	3.50s	472.50
10/9/02	JH	4		
Organize documents for	BLATT, MICHAEL			
production	Organize			
	BILLED: #10448			
.....6498		135.00	0.80s	108.00
10/10/02	JH	4		
Phone conference with client	BLATT, MICHAEL			
re: discovery responses;	Conference			
Instruct secretary re: bate				
stamping documents; Draft	BILLED: #10448			
letter to counsel for				
contractors re: meeting to				
discuss case; Draft letter				
to Quality Custom re:				

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6498 cont.				
failure to answer complaint				
.....6506		135.00	0.25s	33.75
10/15/02	JH	4		
Receipt and review of	BLATT, MICHAEL			
correspondence from Quality	Receipt			
Customs				
	BILLED: #10448			
.....6509		135.00	0.25s	33.75
10/16/02	JH	4		
Phone conference with Ron	BLATT, MICHAEL			
Foreman re: letter from	Conference			
Quality Customs; Fax Travis				
cross-complaint to Ron	BILLED: #10448			
Foreman				
.....6512		135.00	0.40s	54.00
10/18/02	JH	4		
Revise mediation brief	BLATT, MICHAEL			
	Draft			
	BILLED: #10448			
.....6515		135.00	0.40s	<u>54.00</u>
10/10/02	RDF4	5		
Call from Rano Critton - No	BLATT, MICHAEL			
Oregon Insurance	Telephone call			
	BILLED: #10448			
.....6516		135.00	1.00s	<u>135.00</u>
10/15/02	RDF4	5		
Call to Dave Gordon Re:	BLATT, MICHAEL			
Oregon Mutal Insurance and	Telephone call			
case law to support the				
tender of insurance; Review	BILLED: #10448			
case				

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6599		135.00	0.20s	27.00
10/28/02	JH	4		
Receipt and review of letter from Haig Harris re: meeting to discuss defense strategy; Receipt and review of Bray's answer to Travis cross-complaint	BLATT, MICHAEL Receipt BILLED: #10477			
.....6607		135.00	0.40s	54.00
11/6/02	JH	4		
Receipt and review of message from insurance co. for Quality Customs; Returned message; Phone conference with insurance company for Quality Cusotms	BLATT, MICHAEL Review BILLED: #10477			
.....6611		135.00	1.30s	175.50
11/12/02	JH	4		
Draft responses to Jeff Welding's RPD; Draft responses to Travis' Special Interrogatories	BLATT, MICHAEL Draft BILLED: #10477			
.....6613		135.00	2.50s	337.50
11/13/02	JH	4		
Index Blatt documents; Revise responses to Jeff Welding's RPD	BLATT, MICHAEL Organize BILLED: #10477			
.....6617		135.00	3.50s	472.50
11/14/02	JH	4		
Draft responses to Travis Builder's RPD; Draft responses to Plaintiffs' RPD; Draft cover letter to client re: discovery responses; Review files to ensure all documents have been produced	BLATT, MICHAEL Draft BILLED: #10477			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6619		135.00	3.90s	526.50
11/15/02	JH	4		
Draft responses to form	BLATT, MICHAEL			
interrogatories; Revise	Draft			
responses to special				
interrogatories; Draft cover	BILLED: #10477			
letter clients re:				
discovery; Draft cover				
letter to counsel re:				
purchasing copies; Draft				
cover letter to counsel re:				
bates numbers; Draft cover				
letter re: verifications				
.....6634		135.00	1.20s	162.00
11/25/02	JH	4		
Draft letter to George	BLATT, MICHAEL			
Shockley re: coverage and no	Draft			
response from attorney				
assigned to coverage issue;	BILLED: #10477			
Review Gabbert and Lincoln's				
responses to Travis				
Builders' Request for				
Admissions; Review Gabbert				
and Lincoln's responses to				
Travis' SPI; Review Gabbert				
and Lincoln's responses to				
Travis' form rogs; Review				
Travis' answers to Jeff's				
welding RFA; Draft answer to				
Jeff's Welding's First				
Amended Cross-complaint;				
Draft answer to Travis				
Builders' first amended				
cross-complaint				
.....6636		135.00	0.70s	94.50
11/26/02	JH	4		
Revise answers to	BLATT, MICHAEL			
cross-complaints; Phone	Revise			
conference with Jordon				
Lavinsky re: Gabbert and	BILLED: #10477			
Lincoln depositions; Phone				
conference with Ron Foreman				
re: same; Draft letter to				
all counsel re: Gabbert and				
Lincoln depositions				

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6636 cont.				
.....6638		135.00	0.50s	67.50
11/27/02	JH	4		
Draft memo to Ron re:	BLATT, MICHAEL			
discovery and other case	Draft			
issues				
	BILLED: #10477			
.....6650		135.00	0.80s	108.00
12/2/02	JH	4		
Phone conference with Ron	BLATT, MICHAEL			
Foreman re: memorandum	Telephone call			
regarding discovery; Send				
e-mails to insurance	BILLED: #10477			
adjuster and attorney re:				
coverage				
.....6673		135.00	1.00s	135.00
12/6/02	JH	4		
Review Jeff's Welding	BLATT, MICHAEL			
dismissal of	Review			
cross-complaint; Receipt and				
review letter from Jeff's	BILLED: #10477			
Welding re: document				
production; Phone conference				
with Bob Jolly re: his meet				
and confer letter; Draft				
letter to client re: same				
.....6676		135.00	0.40s	54.00
12/9/02	JH	4		
Receipt and review of	BLATT, MICHAEL			
message from Travis'	Receipt			
attorney re: Gabbert and				
Lincoln depositions; Receipt	BILLED: #10477			
and review of meet and				
confer letter from Lavinsky				
.....6697		135.00	0.20s	27.00
12/20/02	JH	4		
Meeting with Ron Foreman re:	BLATT, MICHAEL			
status of the case and	Meeting			
Gabbert/Lincoln depositions				

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6697	cont.			
	BILLED: #10477			
.....6720		135.00	0.50s	<u>67.50</u>
10/18/02	RDF4	5		
Letter from Rand Chritton re	BLATT, MICHAEL			
lack of insurance coverage	Letter			
for Mike Blatt under Harold				
Bray Oregon Mutual Policy and	BILLED: #10477			
phone call to Rand and Mike				
.....6721		135.00	0.40s	54.00
10/17/02	RDF4	5		
Letter to Alexander Anolik,	BLATT, MICHAEL			
Robert Jolly, and Daniel	Letter			
Schrader regarding discovery				
extension	BILLED: #10477			
.....6722		135.00	0.30s	40.50
10/30/02	RDF4	5		
Letter to Alexander Anolik,	BLATT, MICHAEL			
Robert Jolly, and Daniel	Letter			
Schrader regarding discovery				
extension	BILLED: #10477			
.....6723		135.00	0.30s	40.50
11/1/02	RDF4	5		
Letter to Alexander Anolik,	BLATT, MICHAEL			
Robert Jolly, and Daniel	Letter			
Schrader regarding discovery				
extension	BILLED: #10477			
.....6724		135.00	0.70s	<u>94.50</u>
11/5/02	RDF4	5		
Legal research and letter to	BLATT, MICHAEL			
Rand Chritton regarding	Legal research			
legal authority for				
insurance defense and	BILLED: #10477			
indemnification				

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6725		135.00	0.40s	54.00
10/24/02	RDF4	5		
Letter to Haig Harris re:	BLATT, MICHAEL			
defense meeting; Call to	Letter			
Haig Harris				
	BILLED: #10477			
.....6726		135.00	0.30s	<u>40.50</u>
11/25/02	RDF4	5		
Letter to George Shockley	BLATT, MICHAEL			
re: insurance coverage from	Letter			
Oregon Mutal				
	BILLED: #10477			
.....6727		135.00	0.30s	<u>40.50</u>
12/17/02	RDF4	5		
E-mail and shipping of Mike	BLATT, MICHAEL			
Blatt documents to Rand	Miscellaneous			
Chritton				
	BILLED: #10477			
.....6728		135.00	0.30s	<u>40.50</u>
10/16/02	RDF4	5		
Letter to Rand Chritton re:	BLATT, MICHAEL			
insuracne coverage	Letter			
	BILLED: #10477			
.....6729		135.00	0.20s	<u>27.00</u>
12/2/02	RDF4	5		
Letter to George Shockley	BLATT, MICHAEL			
re: insurance coverage for	Letter			
Mike's insurance coverage				
	BILLED: #10477			
.....6738		135.00	0.30s	40.50
12/23/02	JH	4		
Receipt and review of voice	BLATT, MICHAEL			
mail from Lavinsky re:	Receipt			
motion to compel; Draft				
confirming letter re:	BILLED: #10477			
extension of time to file				
motion to compel				

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6740		135.00	1.90s	256.50
1/2/03	JH	4		
Receipt and review of voicemail from Haig Harris re: Gabbert and Lincoln depositions; Phone conference with Shrader's secretary re: depositions; Phone conference with Haig Harris re: depositions; Receipt and review of correspondence from Schrader re: depositions; Phone conference with Shrader's secretary re: depositions; Returned Ms. Lucas' call from Quality Customs; Phone conference with Mr. Jolly's secretary re: depositions; Phone conference with Shrader's secretary re: moving depositions; Receipt and review of letter from Schrader's office confirming depositions for 7th and 9th	BLATT, MICHAEL Receipt BILLED: #10477			
.....6764		135.00	4.00s	540.00
1/6/03	RDF4	5		
Review Blatt documents for deposition of Jim Gabbert; Prepare for Gabbert deposition	BLATT, MICHAEL Review BILLED: #10477			
.....6765		135.00	0.50s	<u>67.50</u>
1/7/03	RDF4	5		
Call to Insurance carrier re: insurance coverage	BLATT, MICHAEL Telephone call BILLED: #10477			
.....6766		135.00	1.50s	202.50
1/7/03	RDF4	5		
Meeting with Mike Blatt	BLATT, MICHAEL Meeting BILLED: #10477			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6766	cont.			
.....6767		135.00	7.00s	945.00
1/7/03	RDF4	5		
Deposition of Jim Gabbert	BLATT, MICHAEL			
	Take Depo			
	BILLED: #10477			
.....6768		135.00	3.00s	405.00
1/9/03	RDF4	5		
Call to: Mike Blatt, Mark	BLATT, MICHAEL			
Jansheski, Steve Buffen	Telephone call			
Barger re: City of Sausalito				
documents, Mac of division 7	BILLED: #10477			
re: water proofing at				
435-445 Bridgeway and lawyer				
for Quality Plumbing, Dan				
Shrader re: documents				
.....6770		135.00	1.40s	189.00
1/6/03	JH	4		
Receipt and review of	BLATT, MICHAEL			
voicemail from Laurie	Receipt			
Sherwood re: depositions;				
Returned message; Meeting	BILLED: #10477			
with Ron Foreman re:				
insurance coverage, Gabbert				
and Lincoln; Phone				
conference with Laurie				
Sherwood; On-line research				
re: background of Jim				
Gabbert and Michael Lincoln				
.....6771		135.00	2.50s	337.50
1/7/03	JH	4		
Respond to Lavinsky's meet	BLATT, MICHAEL			
and confer letter; Respond	Miscellaneous			
to Jolly's meet and confer				
letter; Phone conference	BILLED: #10477			
with Mr. Marx re:				
deposition; Phone conference				
with Schrader's office re:				
notice to Marx of new dates				
for depositions; Meeting				

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			

.....6771 cont.
with client re: meet and
confer letters

.....6772 135.00 2.20s 297.00
1/8/03 JH 4

Receipt and review of voice BLATT, MICHAEL
mail from Lavinsky; Instruct Receipt
secretary re: re-scheduling
Gabbert and Lincoln BILLED: #10477
depositions; Review meet and
confer letters; Draft letter
re: discovery from
Plaintiffs and Travis; Phone
conferences with Lavinsky
re: document production and
[REDACTED] Phone
conference with client re:
[REDACTED]

.....6773 135.00 0.30s 40.50
1/9/03 JH 4
Review letter from Jolly re: BLATT, MICHAEL
Gabbert deposition; Phone Review
conference with Ron Foreman
re: [REDACTED] Blatt property BILLED: #10477

.....6791 135.00 4.30s 580.50
1/9/03 JH 4
Draft form interrogatories BLATT, MICHAEL
to Bray; Conference with Draft
Ronald Foreman re: outgoing
discovery and [REDACTED] BILLED: #10496
[REDACTED] Conference call
with client and Ron Foreman
re: discovery, documents,
and Quality Customs; Phone
conference with conference
with Ron Foreman and counsel
for Quality re: release from
case; Phone conference with
Ron Foreman and city
inspector re: city
documents; Phone conference
with Don Olsen's office re:

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate		
Reference	Client	Level	Time	Total
Description	Slip# Activity			

.....6791 cont.

architectural plans; Draft
document only subpoena to
Mohammad Saaber; Draft
request for production of
documents to Schnabel; Draft
form rogs to Schnabel

.....6794 135.00 1.60s 216.00

1/10/03 JH
Finalize discovery to BLATT, MICHAEL
Schnabel; Call City of Finalize
Sausalito re: obtaining
inspection records; Review BILLED: #10496
inspection records; Phone
conference with Whimont re:
Saabco subpoena; fill out
subpoena order form; Review
subpoena

.....6853 135.00 0.20s 27.00

1/21/03 JH
Receipt and review of BLATT, MICHAEL
cross-complaint for indemnity Receipt
BILLED: #10496

.....6863 135.00 3.00s 405.00

1/21/03 RDF4
Review deposition of Jim BLATT, MICHAEL
Gabbert transcript for Review
deposition of Gabbert and
Lincoln; Review Plans of Don BILLED: #10496
Olsen for 435-445 Bridgeway,
Review inspection reports of
Steve Buffen Barger and late
produced exhibits from
Anolik on cost of job to date

.....6865 135.00 8.00s 1080.00

1/22/03 RDF4
Deposition of Gabbert and BLATT, MICHAEL
Lincoln and preparation Prepare
BILLED: #10496

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6865 cont.				
.....6878		135.00	1.00s	135.00
1/31/03	RDF4	5		
Attend court; Status	BLATT, MICHAEL			
Conference; Calls with	Attend			
Anolik's office re: video				
tapes	BILLED: #10496			
.....6896		135.00	0.90s	121.50
2/4/03	JH	4		
Revise form rogs to Bray;	BLATT, MICHAEL			
Revise Request for	Revise			
production of documents to				
Bray; Revise special	BILLED: #10515			
interrogatories				
.....6899		135.00	1.50s	202.50
2/5/03	JH	4		
Finalize outgoing discovery	BLATT, MICHAEL			
to Bray; Draft form rogs to	Finalize			
Travis; Draft special rogs				
to Travis; Draft rpd to	BILLED: #10515			
Travis; Draft rogs to Jeff's				
Welding				
.....6904		135.00	0.20s	27.00
2/7/03	JH	4		
Phone conference with Jordon	BLATT, MICHAEL			
Lavinsky re: status of	Conference			
videotapes	BILLED: #10515			
.....6948		135.00	0.30s	40.50
2/11/03	JH	4		
Receipt and review of	BLATT, MICHAEL			
Schnabel's discovery	Receipt			
responses	BILLED: #10515			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....6953		135.00	0.20s	27.00
2/14/03	JH	4		
Finalize outgoing discovery to Bray and Travis	BLATT, MICHAEL			
	Finalize			
	BILLED: #10515			
.....7040		135.00	0.20s	27.00
2/26/03	JH	4		
Receipt and review of Schnabel's answers to cross-complaints	BLATT, MICHAEL			
	Receipt			
	BILLED: #10515			
.....7075		135.00	4.50s	607.50
2/13/03	RDF4	5		
Review videotapes	BLATT, MICHAEL			
	Review			
	BILLED: #10515			
.....7107		135.00	0.90s	121.50
3/10/03	JH	4		
Draft answer to bray cross-complaint; review documents produced by Saabco consulting in response to subpoena	BLATT, MICHAEL			
	Draft			
	BILLED: #10515			
.....7192		135.00	1.00s	135.00
3/26/03	RDF4	5		
Review discovery responses of Peter Kane to all discovery	BLATT, MICHAEL			
	Review			
	BILLED: #10515			
.....7272		135.00	0.30s	40.50
4/7/03	JH	4		
Respond to request for extension of time to respond to discovery	BLATT, MICHAEL			
	Prepare			
	BILLED: #10532			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....7337		135.00	0.30s	40.50
4/21/03	JH	4		
Receipt and review of voice mail from Glasby's office; Draft response letter	BLATT, MICHAEL Receipt BILLED: #10532			
.....7495		135.00	2.10s	283.50
5/12/03	JH	4		
Draft letter to all counsel re: depositions and mediation; Draft depo notices and subpoenas to the following: Lincoln, Travis Builders, Harold bray, Al DuFresne, Saabre, Olson, Buffinbargin; Receipt and review of voicemail from Marx re: mediation	BLATT, MICHAEL Draft			
.....7497		135.00	3.40s	459.00
5/13/03	JH	4		
Receipt and review of e-mail from Schrader; Conference with Ron Foreman re: Castle as mediator; Draft letter to all counsel re: Castle's unavailability and need for new mediator; Draft cmc statement; Phone conference with Jordan Lavinsky re: mediation; Phone conference with Marx re: mediation and settlement; Receipt and review of correspondence from Lavinsky re: mediation	BLATT, MICHAEL Receipt			
.....7502		135.00	1.60s	216.00
5/14/03	JH	4		
Phone conference with Lavinsky re: Schnabel liability and status of mediation; Phone conference with contractor [REDACTED] Review Schnabel contract and plans;	BLATT, MICHAEL Conference			

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Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....7502 cont.				
Conference with Ron Foreman re: same and writing carrier; Draft letter to carrier				
.....7530		135.00	0.30s	40.50
5/22/03	JH	4		
Phone conference with Lavinsky re: stipulation for court; Receipt and review of stipulation re: mediation; Receipt and review of correspondence from Schrader re: mediation; Receipt and review of discovery responses from Harold Bray	BLATT, MICHAEL Conference			
.....7588		135.00	0.80s	108.00
5/13/03	RDF4	5		
Call Haig Harris, Michael Marx and Anolik re: Schanbel the shotcrete wall and other insurance issues- pull correspondence file	BLATT, MICHAEL Telephone call			
.....7591		135.00	3.00s	405.00
5/27/03	RDF4	5		
Telephone call with expert Jack Scott; Review file for meeting with Mike and Jack Scott, bring documents; Review the billing and calender of Harold Bray, video tapes to M.J.C. for review	BLATT, MICHAEL Telephone call			
.....7603		135.00	3.50s	472.50
5/28/03	RDF4	5		
Meet with Mike and Ray; Letter to insurer and call to Mary Kay Glaspy	BLATT, MICHAEL Meeting			

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....7608		135.00	0.30s	40.50
5/27/03	JH	4		
Phone conference with Robert	BLATT, MICHAEL			
Setgast re: deposition	Conference			
subpoena; Left message for				
Jordan Lavinsky re: Lincoln				
deposition and stipulation				
.....7609		135.00	0.30s	40.50
5/28/03	JH	4		
Phone conference with Jordan	BLATT, MICHAEL			
Lavinsky re: stipulation and	Conference			
deposition; Phone conference				
with Ron Foreman re: Bray				
discovery responses and				
[REDACTED]				
.....7705		135.00	0.30s	40.50
6/13/03	AH			
*1	BLATT, MICHAEL		0.30e	
Researched and Wrote Down	Research		0.00v	
Dates and Map Numbers				
.....7710		135.00	0.20s	27.00
6/19/03	JH	4		
*1	BLATT, MICHAEL		0.20e	
Receipt and Review of	Telephone call		0.00v	
Voicemail from Diane Kragg;				
Return Message re: Settgast				
Documents				
.....7722		135.00	0.20s	27.00
6/2/03	JH	4		
*1	BLATT, MICHAEL		0.20e	
Phone Conference with Ron	Telephone call		0.00v	
Foreman Regarding Case				
Management Conference and				
Depositions				
.....7723		135.00	1.90s	256.50
6/3/03	JH	4		
*1	BLATT, MICHAEL		1.90e	
Draft Letter to Counsel	Draft		0.00v	

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate		
Reference	Client	Level	Time	Total
Description	Slip# Activity			
.....7723 cont.				
Regarding Depositions; Draft Letter to Counsel Regarding Mediation; Draft Letter to Haig Harris Regarding Lincoln Deposition; Draft Letter to Schrader Regarding Saaber Deposition; Receipt and Review of Letter from Schrader Regarding Same; Multiple Phone Conversations with Lavinsky Regarding Mediation; Phone Conference with Resolution Remedies Regarding Mediators				
.....7726		135.00	0.30s	40.50
6/4/03	JH	4		
*1	BLATT, MICHAEL		0.30e	
Phone Conference with Laurie Sherwood Regarding Deposition Schedule; Review Amended Deposition Notices for Bray and Travis	Telephone call		0.00v	
.....7734		135.00	0.75s	101.25
6/9/03	JH	4		
*1	BLATT, MICHAEL		0.75e	
Receipt and Review of Voicemail from Jordan Lavinsky regarding Depositions; Respond to Voicemail; Respond to Special Interrogatories Propounded by Gabbert & Lincoln	Telephone call		0.00v	
.....7741		135.00	0.40s	54.00
6/10/03	JH	4		
*1	BLATT, MICHAEL		0.40e	
Phone Conference with Ron Foreman Regarding DuFresne Deposition; Pull Documents for Deposition	Telephone call		0.00v	

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate	Time	Total
Reference	Client	Level		
Description	Slip# Activity			
.....7908		135.00	4.00s	540.00
6/3/03	RDF4	5		
*1	BLATT, MICHAEL		4.00e	
Site Inspection, Walk	Miscellaneous		0.00v	
Through; Meet with Mike,				
Jack, Scott and Others;				
Meeting Follow-up with				
Structural Engineers and				
Letters to Insurance				
Carriers Regarding Case				
Status				
.....7909		135.00	3.00s	405.00
6/4/03	RDF4	5		
*1	BLATT, MICHAEL		3.00e	
Prepare for Meeting with	Prepare		0.00v	
Structural Engineer Rob				
Tysinger; File, Review and				
Pull Documents for Meeting				
and Documents to be Used as				
Exhibits for Deposition of				
Mohammed Saaber				
.....7910		135.00	1.50s	202.50
6/5/03	RDF4	5		
*1	BLATT, MICHAEL		1.50e	
Meeting with Structural	Meeting		0.00v	
Engineer				
.....7936		135.00	7.00s	945.00
6/11/03	RDF4	5		
*1	BLATT, MICHAEL		7.00e	
Deposition of Al Dufresne	Depose		0.00v	
(10:00 - 5:00)				
.....7937		135.00	0.60s	81.00
6/24/03	RDF4	5		
*1	BLATT, MICHAEL		0.60e	
Deposition Review	Review		0.00v	

For time: s=spent u=unbillable e=estimated v=variance

Date / Start Time	User	Rate		
Reference	Client	Level	Time	Total
Description	Slip# Activity			
.....7938		135.00	4.50s	607.50
6/25/03	RDF4	5		
*1	BLATT, MICHAEL		4.50e	
Deposition of Mohammed	Depose		0.00v	
Saaber (10 - 2:30)				
.....7939		135.00	5.00s	675.00
6/9/03	RDF4	5		
Preparation for and Attend	BLATT, MICHAEL		5.00e	
the Deposition of Mohammed	Depose		0.00v	
Saaber; Deposition of				
Mohammed Saaber 10:00 -				
1:30; Post Deposition Meeting				
.....7948		135.00	1.50s	202.50
6/6/03	RDF4	5		
Prepare for Deposition of	BLATT, MICHAEL		1.50e	
Mohammed Saaber; Meet with	Meeting		0.00v	
Rob Tysinger Structural				
Engineer 8:00 - 9:30				
<hr/>				
GRAND TOTAL				
	User		196.05s	26466.75
	Client		34.65e	0.00
	Activity		0.00v	0.00
	Billable		196.05	26466.75
	Unbillable			0.00

FOREMAN & BRASSO

930 Montgomery Street, Suite 600
San Francisco, California 94133
TEL: (415) 433-3475 FAX: (415) 781-8030

March 01, 2004

Invoice submitted to:
Michael Barnette, Sr. Technical Claims Specialist
Liberty Mutual Insurance Company
P.O. Box 9118
Pleasanton CA 94566

In Reference To: James Gabbert and Michael Lincoln v. Michael Blatt, et al.
Your File No. P602-070876-01
Policy No. TB1-131-011670-397

Invoice #10790

Professional Services

<u>Time</u>	<u>Hrs/Rate</u>	<u>Amount</u>
1/22/2004 KLT Go over Motions In Limine with Ron	1.00 135.00/hr	135.00
1/26/2004 KLT Draft all Motions In Limine	7.20 135.00/hr	972.00
1/27/2004 JH Meeting with Ron Foreman and expert re: expert mediation	0.75 135.00/hr	101.25
RDF Talk to Expert	0.75 135.00/hr	101.25
KLT Revise Motions In Limine	5.70 135.00/hr	769.50
1/28/2004 JH Attend expert mediation	2.50 135.00/hr	337.50
KLT Finalize/shepardize motions in limine	5.50 135.00/hr	742.50
1/29/2004 JH Meeting with Ron Foreman re: motions in limine	0.30 135.00/hr	40.50
JH Revise jury instruction	1.00 135.00/hr	135.00

Michael Barneffe, Sr. Technical Claims Specialist

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		<u>Hrs/Rate</u>	<u>Amount</u>
1/29/2004	JH Legal research re: breach of implied warranty	0.40 135.00/hr	54.00
	JH Revise trial brief and issue conference statement	0.90 135.00/hr	121.50
	RDF Redraft the motions in limine, the Issue Conference Statement, the Voir Dire, the witness list, the exhibits list, complete the matters for the court, reseasch [REDACTED] (11:30-7-30)) meet with Mike to give Travis billing	8.00 135.00/hr	1,080.00
	KLT Work on Motions In Limine	4.00 135.00/hr	540.00
1/30/2004	RDF Work with Jackie on jury intructions, Kendra on the redrafting of the motions in limine and the request for an offer of proof re: the plaintiffs fraud claim, redraft the verdict form based on the CACI form and the actual claims submitted in the complaint, draft the verdict form for the cross complaint, work with Tina on exhibits and assemble all the input for the Issue Conference for Monday.	5.83 135.00/hr	787.05
	JH Revise special verdict form, witness list, issue conference statement and other portions of issue conference statement filings; Review and revise jury instructions	5.00 135.00/hr	675.00
	EJF Assist in trial prep.	2.80 135.00/hr	378.00
	KLT Finish Motion In Limines and Special Verdict	5.00 135.00/hr	675.00
1/31/2004	RDF Prepare the direct and cross examination of the witnesses, go through the depositions and the exhibits, outline the opening statement	8.33 135.00/hr	1,124.55
2/1/2004	RDF Ruin Super Bowl Sunday by working with Brett Ferrari and doing additional trial preparation; Read all Jury Instruction	3.50 135.00/hr	472.50
2/2/2004	RDF Attend the second Mandatory Settlement Conference with the court; Read deposition of Al Dufresne	5.50 135.00/hr	742.50
2/3/2004	RDF Finish review of Al Dufresne deposition; Meeting with Brett Ferrari and Mike Blatt	9.00 135.00/hr	1,215.00

Michael Barnette, Sr. Technical Claims Specialist

Page 3

		<u>Hrs/Rate</u>	<u>Amount</u>
2/4/2004	RDF Trial preparation- review Paul Weir deposition	3.60 135.00/hr	472.50
	RDF Conference call with Joe Ryan; Prepare subpoena for witness; Other trial preparation	4.00 135.00/hr	540.00
2/5/2004	JH Draft oppositions to to Plaintiffs motions in limine;	2.00 135.00/hr	270.00
	RDF Work on Opening Statement and all parties Motions in Limine	6.00 135.00/hr	810.00
2/6/2004	JH Attend first day of trial (includes travel time);	2.00 135.00/hr	270.00
	RDF Prepare for Issue Conference; Court appearance; Preparation of Voir Dire and Jury Selection	3.50 135.00/hr	472.50
2/7/2004	RDF Review the Document Production of Plaintiffs; Trial prep; Review Opposition to Motions in Limine	3.00 135.00/hr	405.00
2/8/2004	RDF Meet with Mike Blatt	1.00 135.00/hr	135.00
2/9/2004	JH Phone conference with Haig Harris re: Peter Kane's schedule	0.20 135.00/hr	27.00
	JH Review order from court re: trial calendar	0.25 135.00/hr	33.75
	JH Legal research re: judge's power to limit days of testimony	0.50 135.00/hr	67.50
	RDF Review trialcourts pretrialorder, conference call with all counsel, call to Haig Harris re availblity of Peter Kane, revoewe exhibits, prepare for lthe issue conference and do other matters to get the matter to trial	5.00 135.00/hr	675.00
	JH Meeting with Ron Foreman re: trial preparation	4.00 135.00/hr	540.00
	RDF Meeting with Jackie on jury selections and the opening statement; Call to Karen Jo, Jury Consultant	4.00 135.00/hr	540.00
2/10/2004	JH Attend second day of trial (motions in limine, juror book, other pre-trial matters) (includes travel time)	8.00 135.00/hr	1,080.00
	JH Phone conference with Haig Harris re: Kane subpoena	0.20 135.00/hr	27.00
	RDF Pre trial, motions in limine and the issue conference	8.00 135.00/hr	1,080.00

Michael Barnette, Sr. Technical Claims Specialist

Page 4

		<u>Hrs/Rate</u>	<u>Amount</u>
2/11/2004	JH Attend third day of trial (jury selection, opening statements) (includes travel time)	8.00 135.00/hr	1,080.00
	RDF Meeting with the judge, jury selection and opening statements and pretrial work on the opening statement with Jackie	10.00 135.00/hr	1,350.00
2/12/2004	RDF Meeting with Brett Ferrari (8:30 to 4:00 p.m.); Meet Mike (2.5); Kinkos on all photos (2)	12.00 135.00/hr	1,620.00
2/13/2004	RDF Trial prep (6:30-7:30); Attend Trial (9:00-1:30); Return to court to see plaintiff's exhibits (2:30-3:30)	6.50 135.00/hr	877.50
	JH Attend fourth day of trial (Gabbert, Lincoln, DuFresne) (includes travel time)	5.00 135.00/hr	675.00
	JH Meeting with client and Ron Foreman re: trial strategy	2.50 135.00/hr	337.50
2/14/2004	RDF Meeting with Jack Scott and Mike to prepare Jack for trial (10:00-4:00)	6.00 135.00/hr	810.00
2/15/2004	JH Phone conference with Ron Foreman re: directed verdict, witness list, DeFresne and Pottenger cross-examination	0.50 135.00/hr	67.50
	RDF Review the proposed jury verdict form from Schnabel, go over potential making of Motion of Nonsuit and Directed Verdict with Jackie (2 hours), review the depo testimony of Al Dufresne for his cross examine (3 hours), prepare the cross examine of Gary Pottenger (1.5 hours) review deposition transcript and prepare direct examine of Harold Bray (4 hours) review the engineering file of Mohammed Saaber for a defense to [REDACTED] (2 hours) outline issues for closing argument (2.5 hours)	16.17 135.00/hr	2,182.95
2/16/2004	RDF Meeting with Harold Bray; Mike and Mary Glaspy	6.00 135.00/hr	810.00
2/17/2004	RDF Trial- Paul Wier testimony; Post trial motion (7); Meeting with Brett Ferrari (2.5)	9.50 135.00/hr	1,282.50
	JH Meeting with Brett Ferrari and Ron Foreman	2.00 135.00/hr	270.00
	JH Attend trial (includes travel time)	8.50 135.00/hr	1,147.50
2/18/2004	RDF Trial preparation- Paul Wier and Guy Travis (4); Trial (7.5)	11.50 135.00/hr	1,552.50
	JH Prepare for Pottenger Cross-examination	1.00 135.00/hr	135.00
	JH Attend trial (includes travel time)	8.50 135.00/hr	1,147.50

Michael Barnette, Sr. Technical Claims Specialist

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		<u>Hrs/Rate</u>	<u>Amount</u>
2/19/2004	RDF Trial (8); Meeting with Mike Blatt and Brett Ferrari (5)	13.00 135.00/hr	1,755.00
	JH Attend trial (includes travel time)	8.50 135.00/hr	1,147.50
	JH Prepare cross of Ferguson and direct of Buffinbarger	2.00 135.00/hr	270.00
2/20/2004	RDF Tria (5.5) ; Telephone call with Jack Scott (1)	6.50 135.00/hr	877.50
	JH Attend Trial	5.50 135.00/hr	742.50
2/21/2004	RDF Trial Prep- review jury instructions for meeting with court on Monday Feb. 23, 2004 and Special Verdict form	5.00 135.00/hr	675.00
2/22/2004	RDF Sunday meeting with Jack Scott, Dennis and Mike at Mike's house to prepare Jask for his testimony (9:30-4:30)	6.00 135.00/hr	810.00
2/23/2004	JH Attend trial -- jury instructions and special verdict	8.00 135.00/hr	1,080.00
	JH Meeting with Ron Foreman re: closing argument	2.00 135.00/hr	270.00
	RDF Meet with the court and counsel to review jury instructions and the verdict form, motions for non suit and directed verdict meeting with Jackie re verdict form issues, and law to support our non suit motions, dismiss punitive damages	11.00 135.00/hr	1,485.00
2/24/2004	JH Attend trial -- Ferrari cross, Lykstra, Orosco, Bray	7.50 135.00/hr	1,012.50
	JH Meeting with Ron Foreman, Jack Scott and Brett Ferrari re: Jack Scott's testimony	2.00 135.00/hr	270.00
	RDF Prepare Gil Orosco and Doug Lykstra for testimony, have witnesses on the stand, meet Jack Scott, Dennis and Brett Ferrari to prove the unnecessay repairs and the cost of repairs for Scott testimony	12.50 135.00/hr	1,687.50
2/25/2004	RDF Meet with Jack Scott, Mike and Dennis for trial testimony (7:30-9:00 am) Jack Scott and others on the stand (9:30 - 4:30) meet with Jackie on closing argument (5:30- 7:30)	9.50 135.00/hr	1,282.50
	JH Meeting with Ron Foreman to prepare for closing arguments	3.00 135.00/hr	405.00
	JH Attend trial	7.00 135.00/hr	945.00

Michael Barnette, Sr. Technical Claims Specialist

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		<u>Hrs/Rate</u>	<u>Amount</u>
2/26/2004	RDF Prepare 776 examination of Jim Gabbert, prepare for the window rebuttal witness, review verdict form for closing (2:am-5:am) conclusion of the cross defendants case, Mike Blatt on the stand, rebuttal witness and review with the court the final version of jury instructions, admit evidence (8:30 am-4:30 pm) meet with Jackie to prepare the closing argument (5:00-9:30)	15.50 135.00/hr	2,092.50
JH	attend trial -- Gabbert, Blatt, Rollo; finalize exhibits	7.00 135.00/hr	945.00
RDF	Telephone call with Al Anolik and Joe Ryan	1.00 135.00/hr	135.00
2/27/2004	RDF Prepare closing argument, court, closing, jury instructions, deliberations and verdict (6:30 am -7:00 pm)	12.50 135.00/hr	1,687.50
JH	Attend trial -- closing arguments and jury deliberations	10.00 135.00/hr	1,350.00
JH	Finalize jury verdict forms and jury instructions; make overheads for closing argument	3.00 135.00/hr	405.00
2/28/2004	RDF Meeting with Jack Scott, Dennis and Mike to get Jack ready to testify on all cost issues (9:30-4:30) at Mike's house	11.00 135.00/hr	1,485.00
SUBTOTAL:		[420.78	56,805.30]
For professional services rendered		420.78	\$56,805.30
Additional Charges :			
<u>Expense</u>		<u>Price</u>	
1/31/2004	Lexis -- Legal research	524.66	524.66
2/12/2004	Wheels of Justice: Served Bob Howard	270.00	270.00
2/17/2004	Copy Central - transparencies	60.76	60.76
2/18/2004	Western Messenger: Marin Superior Court	74.40	74.40
	Kinko's	10.14	10.14
2/20/2004	Court Transcript	1,288.00	1,288.00
2/25/2004	Derish Associates: For sevices rendered in February 2004	422.50	422.50
2/26/2004	Miscellaneous expenses during trial	168.98	168.98

Michael Barnette, Sr. Technical Claims Specialist

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2/27/2004 Court fees: 2/13/04 to 2/27/04

Price	Amount
750.00	750.00

Toll- 2/6/04 to 2/27/04

52.00	52.00
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2/29/2004 Lexis -- Legal research

426.44	426.44
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Ferrari Moe- 2/21/04 to 2/5/04

2,582.46	2,582.46
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SUBTOTAL:

[6,630.34]

Total costs

\$6,630.34

Total amount of this bill

\$63,435.64 20

Previous Balance :

\$ 46,135.56 21

Balance due:

\$ 109, 571.19

FOREMAN & BRASSO

930 Montgomery Street, Suite 600
 San Francisco, California 94133
 TEL: (415) 433-3475 FAX: (415) 781-8030

April 02, 2004

Invoice submitted to:
 Michael Barnette, Sr. Technical Claims Specialist
 Liberty Mutual Insurance Company
 P.O. Box 9118
 Pleasanton CA 94566

In Reference To: James Gabbert and Michael Lincoln v. Michael Blatt, et al.
 Your File No.: P602-070876-01
 Policy No. TB1-131-011670-397

Invoice #10799

Professional Services

<u>Time</u>		<u>Hrs/Rate</u>	<u>Amount</u>
3/1/2004 JH	Phone conference with Joe Ryan re: post-verdict issues	0.40 135.00/hr	54.00
3/10/2004 RDF	Read memo of Joe Ryan on post-trial motions, review Witkin, Cal Procedure and Trial Handbook on method to reduce the Verdict and modify the judgement, draft rough of the Motion for Judgement not Withstanding the Verdict	5.00 135.00/hr	675.00
3/15/2004 RDF	continue drafting the JNOV motion and incorporate sections from the trial record and the case law	6.00 135.00/hr	810.00
3/16/2004 RDF	Complete the drafting of the motion for JNOV	4.50 135.00/hr	607.50
JH	Review JNOV	0.40 135.00/hr	54.00
3/22/2004 JH	Review memorandum of costs	0.10 135.00/hr	13.50
3/24/2004 EJF	Draft Motion to Tax Costs.	1.50 135.00/hr	202.50
3/29/2004 JH	Phone conference with Joe Ryan re: costs bill	0.25 135.00/hr	33.75

Michael Barnette, Sr. Technical Claims Specialist

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	<u>Hrs/Rate</u>	<u>Amount</u>
SUBTOTAL:	[18.15	2,450.25]
For professional services rendered	18.15	\$2,450.25
Additional Charges :		
<u>Expense</u>	<u>Price</u>	
1/26/2004 Meal	29.30	29.30
1/31/2004 FedEx: Blatt	33.58	33.58
2/2/2004 Meal	34.26	34.26
2/19/2004 Court Reporter: Deborah S. Bartinek	1,120.00	1,120.00
2/25/2004 Derish Associates, Inc.: For Services rendered in February 2004	422.50	422.50
2/27/2004 Western Messenger: Marin Superior Court	74.40	74.40
Court Reporter: Debbie Bartunek	133.00	133.00
2/29/2004 Lexis -- Legal research	172.00	172.00
In-house photocopying for the month of February 2004	0.20	189.60
3/1/2004 Jack Scott: 2/18/04 to 2/25/04	14,850.00	14,850.00
3/3/2004 Western Messenger: Anolik	14.30	14.30
3/5/2004 Derish Associates, Inc.: For Services rendered in March 2004-I location reports on 10 jurors	500.00	500.00
3/15/2004 Western Messenger: Marin Superior Court to Office	97.15	97.15
One Legal, Inc: Filing fee- Request for Dismissal	29.50	29.50
3/16/2004 Filing fee: JNOV Motion	37.00	37.00
Western Messenger: Marin Superior Court	148.81	148.81
Western Messenger: 2107 Van Ness	14.30	14.30
Western Messenger: 2010 Crow Canyon Place	67.20	67.20
Western Messenger: Sedgwick	14.30	14.30

Michael Barnette, Sr. Technical Claims Specialist

Page 3

	<u>Price</u>	<u>Amount</u>
SUBTOTAL:		[17,981.20]
Total costs		\$17,981.20
Total amount of this bill		<u>\$20,431.45</u>

FOREMAN & BRASSO

930 Montgomery Street, Suite 600
 San Francisco, California 94133
 TEL: (415) 433-3475 FAX: (415) 781-8030

May 05, 2004

Invoice submitted to:
 Michael Barnette, Sr. Technical Claims Specialist
 Liberty Mutual Insurance Company
 P.O. Box 9118
 Pleasanton CA 94566

In Reference To: James Gabbert and Michael Lincoln v. Michael Blatt, et al.
 Your File No.: P602-070876-01
 Policy No. TB1-131-011670-397

Invoice #10846

Professional Services

<u>Time</u>		<u>Hrs/Rate</u>	<u>Amount</u>
4/6/2004 JH	Review motion to tax costs	1.00 135.00/hr	135.00
EJF	Draft Motion to Tax Costs.	1.50 135.00/hr	202.50
4/7/2004 EJF	Draft Motion to Tax Plaintiffs' Memorandum of Costs.	2.00 135.00/hr	270.00
4/8/2004 JH	Finalize motion to tax costs	0.25 135.00/hr	33.75
4/14/2004 JH	Review Plainatiff's motion for attorneys fees;	0.40 135.00/hr	54.00
JH	Begin drafting opposition to fees by conducting legal research and outlining argument	4.00 135.00/hr	540.00
4/15/2004 JH	Conducted additional legal research and continued to draft opposition	3.00 135.00/hr	405.00
RDF	Review the case law in opposition to the award of attorney fees, the draft of the motion by Jackie and pull the National Law Journal study, call to firms re: rates for new associates and get the dates for events in this case for the declaration in opposition.	2.50 135.00/hr	337.50

Michael Barnette, Sr. Technical Claims Specialist

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		<u>Hrs/Rate</u>	<u>Amount</u>
4/16/2004	RDF Draft declaration in opposition to the attorneys fee motion and the exhibits thereto, speak with Joe Ryan, go through the accounting of Anolik and challenge the reasonableness of the rates charged by the associate lawyers. File with the clerk of the court.	6.00 135.00/hr	810.00
	JH Draft declaration in opposition to attorneys fees; Finalize opposiiton;	6.50 135.00/hr	877.50
	JH Phone conference with Joe Ryan re: opposition to motion for attorney's fees	0.20 135.00/hr	27.00
4/20/2004	JH Prepare errata sheet re: correct deduction for settlement numbers in opposition to motion for attorney's fees	0.40 135.00/hr	54.00
4/22/2004	JH Review Plaintiffs' opposition to JNOV	0.40 135.00/hr	54.00
	JH Draft reply brief and conduct legal research associated with reply brief	3.00 135.00/hr	405.00
	JH Phone conference with Joe Ryan re: opposition to JNOV	0.20 135.00/hr	27.00
	JH Finalize reply brief in support of JNOV	1.25 135.00/hr	168.75
	JH Review Plaintiffs' reply in support of attorneys' fees motion	0.40 135.00/hr	54.00
	RDF Rewrite reply to opposition to JNOV, outline and rewrite Ron's declaration in reply to the JNOV and review the opposition to the JNOV from Gabbert and Lincoln, call to Joe Ryan, review the reply of Gabbert and Lincoln to the motion on attorney fees	4.00 135.00/hr	540.00
4/28/2004	JH Attend hearing on JNOV and Motion for Attorney's Fees	1.00 135.00/hr	135.00
	JH Review reply in support of motion to tax costs	0.25 135.00/hr	33.75
	EJF Draft Reply in Support of Motion to Tax Costs.	2.50 135.00/hr	337.50
	RDF Prepare for court and appear court on JNOV and the motion to oppose the award of attorney fees, discuss with Al Anolik the prospects of an appeal from Gabbert and Lincoln	2.00 135.00/hr	270.00
4/29/2004	JH Finalize reply in support of motion to tax costs	0.50 135.00/hr	67.50
	EJF Draft and then edit Reply in Support of Motion to Tax Costs	2.00 135.00/hr	270.00

Michael Barnette, Sr. Technical Claims Specialist

Page 3

		<u>Hrs/Rate</u>	<u>Amount</u>
4/29/2004	EJF Research whether an appeal/supersedeas bond can be collateralized with property; explore more cost-efficient methods.	0.80 135.00/hr	108.00
	RDF Discussion re appeal, the cost of an appeal bond and the possible issues on appeal, from the fee award, the denial of the JNOV and the award of costs, the standard of review for the issues and other miscellaneous matters that might reverse the jury verdict.	1.25 135.00/hr	168.75
	JH Meeting with Ron Foreman and Elizabeth Ferrall re: appeal issues	0.25 135.00/hr	33.75
5/3/2004	JH Review tentative ruling on motion to tax costs	0.25 135.00/hr	33.75
5/4/2004	JH Phone conference with Joe Ryan re: JNOV and attorneys' fees orders	0.25 135.00/hr	33.75
	RDF Call to Mike Blatt and Mike Barnette re the outcome, the payoff, settlement and payment by the insurer of the attorney fees and costs	1.00 135.00/hr	135.00
SUBTOTAL:		49.05	6,621.75
For professional services rendered		49.05	\$6,621.75
Additional Charges :			
		<u>Price</u>	
<u>Expense</u>			
1/30/2004	FedEx: Blatt	33.58	33.58
3/31/2004	In-house photocopying for the month of March 2004	0.20	41.60
	Lexis -- Legal research	123.86	123.86
4/8/2004	One Legal, Inc: Filing fee- Notice of Motion to Tax Plaintiffs Memorandum or Costs; MPA	80.50	80.50
4/16/2004	Copy Central	21.32	21.32
	Western Messenger: 2107 Van Ness Ave.	28.60	28.60
4/20/2004	One Legal, Inc: Filing fee- Opposition to Motion for Contractual Attorney's fees	36.00	36.00
4/22/2004	One Legal, Inc: Filing fee- Declaration; Support of Motion; POS	47.00	47.00
SUBTOTAL:			412.46

Michael Barnette, Sr. Technical Claims Specialist

Page 4

Total costs

Amount
\$412.46

Total amount of this bill

\$7,034.21

Previous Balance :
Payment:

\$ 20,431.45
(\$ 19,850.00)

Balance due:

\$ 7,615.66

FOREMAN & BRASSO

930 Montgomery Street, Suite 600
 San Francisco, California 94133
 TEL: (415) 433-3475 FAX: (415) 781-8030

June 02, 2004

Invoice submitted to:
 Michael Barnette, Sr. Technical Claims Specialist
 Liberty Mutual Insurance Company
 P.O. Box 9118
 Pleasanton CA 94566

In Reference To: James Gabbert and Michael Lincoln v. Michael Blatt, et al.
 Your File No. P602-070876-01
 Policy No. TB1-131-011670-397

Invoice #10879

✓
 Paid 7/10/04
 MB

Professional Services

<u>Time</u>		<u>Hrs/Rate</u>	<u>Amount</u>
5/5/2004 JH	Review cases re: appealing attorneys fee award	0.25 135.00/hr	33.75
5/10/2004 JH	Draft order granting motion to tax costs	0.30 135.00/hr	40.50
5/11/2004 JH	Finalize order granting motion to tax costs	0.10 135.00/hr	13.50
JH	Draft cover letter to Ryan and Anolik re: post-trial motion orders	0.20 135.00/hr	27.00
5/20/2004 JH	Phone conference with Joe Ryan re: motion to tax costs order	0.10 135.00/hr	13.50
5/26/2004 RDF	Telephone call with Mike Barnett re the payment of the judgement by the insurer, research into the obligations of the insurer to pay the judgement	2.00 135.00/hr	270.00
5/28/2004 RDF	Review the proposed judgement of Al Anolik and object to the form for its form and omissions, draft correct form and resubmit to Al and Joe Ryan	1.25 135.00/hr	168.75
SUBTOTAL:		4.20	567.00
For professional services rendered		4.20	\$567.00

Michael Barnette, Sr. Technical Claims Specialist

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Additional Charges :

<u>Expense</u>	<u>Price</u>	<u>Amount</u>
4/22/2004 Western Messenger: Anolick	14.30	14.30
4/29/2004 One Legal, Inc: Filing fee- Reply in Support of Motion to Tax Plaintiff's Memo of Costs	41.75	41.75
Western Messenger: Anolick	42.90	42.90
4/30/2004 In-house photocopying for the month of April 2004	0.20	170.80
SUBTOTAL:		[269.75]
Total costs		\$269.75
Total amount of this bill		\$836.75

Previous Balance : \$ 7,615.66

 Balance due: \$ 8,452.41

SVNO 009 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS 0
PYT AMT (884.23) CH/EFT NO 15359707 SCHD NO ISSUE DATE 08/18/2004
PAYEE NAME L1 FOREMAN & BRASSO RELEASED BY ID C602B17
PAYEE NAME L2 DATE 08/18/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 930 MONTGOMERY STREET DATE 08/17/2004
STREET/ADDR 2 SUITE 600 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94133 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: INVOICE# 10916. COSTS FROM 5/28/04 TO 7/8/04
RE: GABBERT V. BLATT/SCHNABEL
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO:
FOLLOW UP NOTES A/I COSTS
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

(A) VIA ACES Session.zws - PASSPORT

June 19, 2006, 15:34:55

SVNO 001 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS 0
PYT AMT 37799.77 CH/EFT NO 15115278 SCHD NO ISSUE DATE 07/10/2003
PAYEE NAME L1 FOREMAN & BRASSO RELEASED BY ID C602D74
PAYEE NAME L2 ATTORNEYS AT LAW DATE 07/10/2003
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 807 MONTGOMERY STREET DATE 07/09/2003
STREET/ADDR 2 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94133 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: LIBERTY MUTUAL'S 50% SHARE OF A/I FEES AND COSTS ON BEHALF OF
SCHNABEL FOUNDATION
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO:
FOLLOW UP NOTES A/I FEES & COSTS
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

SVNO 002 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS O
PYT AMT 11441.61 CH/EFT NO 15236207 SCHD NO ISSUE DATE 01/27/2004
PAYEE NAME L1 FOREMAN & BRASSO RELEASED BY ID C602D74
PAYEE NAME L2 DATE 01/27/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 930 MONTGOMERY STREET DATE 01/27/2004
STREET/ADDR 2 SUITE 600 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94133 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: LIBERTY'S SHARE OF A/I FEES AND COSTS FROM JULY 10, 2003 THRU
DEC 19, 2003. RE: GABBERT, ET AL V. SCHNABEL FOUNDATION
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO:
FOLLOW UP NOTES A/I FEES AND COSTS
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

SVNO 003 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS O
PYT AMT 10927.35 CH/EFT NO 15247195 SCHD NO ISSUE DATE 02/13/2004
PAYEE NAME L1 FOREMAN & BRASSO RELEASED BY ID C602D74
PAYEE NAME L2 DATE 02/13/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 930 MONTGOMERY STREET DATE 02/12/2004
STREET/ADDR 2 SUITE 600 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94133 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: LIBERTY MUTUAL'S 50/50 SHARE OF FEES AND COSTS THRU 1/26/04
ON BEHALF OF SCHNABEL FOUNDATION. (RE: GABBERT V. BLATT)
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO:
FOLLOW UP NOTES SEE IER
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

SVNO 004 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS O
PYT AMT 109571.19 CH/EFT NO 15259924 SCHD NO ISSUE DATE 03/04/2004
PAYEE NAME L1 FOREMAN & BRASSO RELEASED BY ID C602D74
PAYEE NAME L2 DATE 03/04/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 930 MONTGOMERY STREET DATE 03/03/2004
STREET/ADDR 2 SUITE 600 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94133 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: FEES AND COSTS FROM 1/22/04 THRU 2/27/04
RE: GABBERT V. SCHNABEL FOUNDATION
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO:
FOLLOW UP NOTES FEES AND COSTS THROUGH TRIAL
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

SVNO 005 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS O
PYT AMT 19850.00 OH/EFT NO 15270566 SCHD NO ISSUE DATE 03/22/2004
PAYEE NAME L1 FOREMAN & BRASSO RELEASED BY ID C602D74
PAYEE NAME L2 DATE 03/22/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 930 MONTGOMERY STREET DATE 03/19/2004
STREET/ADDR 2 SUITE 600 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94133 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: EXPERT COSTS RE: GABBERT V. SCHNABEL FOUNDATION

IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO
FOLLOW UP NOTES OUTSTANDING EXPERT COSTS
RELEASE/PEND PAYMENT DISPLAY SERVICE
SCREEN SUFFIX

PRINT CHECK IN BO:
EXTRA EOP(LOCAL)
REMARKS Y ID C602D28

SVNO 006 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS 0
PYT AMT 7034.21 CH/EFT NO 15313591 SCHD NO ISSUE DATE 06/01/2004
PAYEE NAME L1 FOREMAN & BRASSO RELEASED BY ID C602D74
PAYEE NAME L2 DATE 06/01/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 930 MONTGOMERY STREET DATE 05/29/2004
STREET/ADDR 2 SUITE 600 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94133 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: PAYMENT OF FEES AND COSTS FOR INVOICE# 10846
RE: GABBERT V. BLATT; SCHNABEL FOUNDATION
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO:
FOLLOW UP NOTES A/I FEES AND COSTS
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

SVNO 007 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS O
PYT AMT 836.75 CH/EFT NO 15337048 SCHD NO ISSUE DATE 07/12/2004
PAYEE NAME L1 FOREMAN & BRASSO RELEASED BY ID C602D74
PAYEE NAME L2 DATE 07/12/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 930 MONTGOMERY STREET DATE 07/10/2004
STREET/ADDR 2 SUITE 600 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94133 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: LIBERTY'S SHARE OF ATTORNEYS FEES AND COSTS FOR MICHAEL BLATT
UNDER THE A/I ENDORSEMENT ISSUED BY SCHNABEL FOUNDATION.
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO:
FOLLOW UP NOTES A/I FEES AND COSTS FROM FOREMAN & BRASSO
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

FOREMAN & BRASSO

930 Montgomery Street, Suite 600
 San Francisco, California 94133
 TEL: (415) 433-3475 FAX: (415) 781-8030

July 16, 2004

Invoice submitted to:
 Michael Barnette, Sr. Technical Claims Specialist
 Liberty Mutual Insurance Company
 P.O. Box 9118
 Pleasanton CA 94566

In Reference To: James Gabbert and Michael Lincoln v. Michael Blatt, et al.
 Your File No.: P602-070876-01
 Policy No. TB1-131-011670-397

Invoice #10916

Additional Charges :

<u>Expense</u>	<u>Price</u>	<u>Amount</u>
5/28/2004 Court Reporter- Debbie Bartunec	42.00	42.00
Court Reporter- Deborah Bartunek- Reporter's Transcript of Proceedings: 1/26/04	42.00	42.00
5/30/2004 In-house photocopying for the month of May 2004	0.20	13.60
5/31/2004 Lexis -- Legal research	31.63	31.63
7/8/2004 Filing fee for Marin Superior Court- Appeal	100.00	100.00
Filing fee for Court of Appeal	655.00	655.00
SUBTOTAL:		[884.23]
Total costs		\$884.23
 Previous Balance :		 \$ 8,452.41
Payment:		(\$ 7,034.21)

Balance due:

\$ 2,302.43

SVNO 008 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS O
PYT AMT 13634.85 CH/EFT NO 15340157 SCHD NO ISSUE DATE 07/16/2004
PAYEE NAME L1 ALEXANDER ANOLIK RELEASED BY ID C602D74
PAYEE NAME L2 DATE 07/16/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 2107 VAN NESS AVENUE DATE 07/16/2004
STREET/ADDR 2 SUITE 200 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94109 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: LIBERTY MUTUAL'S PAYMENT OF COSTS AWARDED BY THE COURT
RE: GABBERT V. MICHAEL BLATT
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO:
FOLLOW UP NOTES PAYMENT OF PLTF'S COSTS
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

SVNO 011 PAYMENT RELEASE (PR) SPEC CLM SERV Y
INSD SCHNABEL FOUNDATION COMPANY DOL 04/02/1997 CLAIM NO P 602-070876-01 REG
CLMT GABBERT, JAMES/M. BLATT (AI-391 CLAIM STATUS O
PYT AMT 286667.40 CH/EFT NO 80192959 SCHD NO ISSUE DATE 09/10/2004
PAYEE NAME L1 ALEXANDER ANOLIK TRUST ACCOUNT RELEASED BY ID C001A81
PAYEE NAME L2 DATE 09/10/2004
PAYEE NAME L3 ADDED BY ID C602D28
STREET/ADDR 1 2107 VAN NESS AVENUE DATE 09/09/2004
STREET/ADDR 2 SUITE 200 SSP ID C602D28
CITY SAN FRANCISCO ST CA ZIP 94109 COUNTRY
ISSUE STATUS 10
(10-ISSUE, 12-DAM W/IN DED, 14-EFT, 15-MANUAL, 20-CONT WAGE, 25-PEND SUPR,
30-PEND MISC, 35-PEND HO, 40-PEND OTHER, 90-DENY NO EOP, 95-DENY WITH EOP)
10-20: F/N AF/NAF T/P LOSS PRINT LOCAL(Y/BLANK) Y WAV(MA)/FUN(CN)
15(MANUAL): CHECK NO CD CHECK DATE CHECK AMT
40: PEND TO FUT 20-40: PEND DATE 20: CYCLE ACCU
EOP NOTE CODE: EOP COPY TO: INSD CLMT
EOP NOTES: SETTLEMENT OF ATTYS FEES AWARD
RE: GABBERT V. SCHNABEL FOUNDATION
IF REPLACEMENT CHECK, ENTER PRIOR CHECK NO PRINT CHECK IN BO: 001
FOLLOW UP NOTES ATTYS FEES AWARD
RELEASE/PEND PAYMENT DISPLAY SERVICE EXTRA EOP(LOCAL)
SCREEN SUFFIX REMARKS Y ID C602D28

Ronald J. Skocypec, Esq., Bar No.: 072690
Melodee A. Yee, Esq., Bar No.: 168541
PETERSON & BRADFORD, LLP
100 North First Street, Suite 300
Burbank, CA 91502
818.562.5800
818.562.5810 – Facsimile

Attorneys for Plaintiff
LIBERTY MUTUAL INSURANCE COMPANY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

Liberty Mutual Insurance Company,

Plaintiff,

vs.

Michael T. Blatt,

Defendant.

) Case No.: C 06 2022 SC

)
) **LIBERTY MUTUAL INSURANCE**
) **COMPANY'S REQUEST FOR JUDICIAL**
) **NOTICE FILED IN SUPPORT OF**
) **APPLICATION FOR DEFAULT**
) **JUDGMENT BY COURT;**

) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES;**

) **EXHIBITS**

)
) [Concurrently Filed With Application For
) Default Judgment; Declarations Of
) Michael Barnette and Melodee A. Yee;
) [Proposed] Order; and [Proposed]
) Judgment]

) DATE: August 25, 2006

) TIME: 10:00 A.M.

) DEPT.: Ctrm 1, 17th Floor

Plaintiff Liberty Mutual Insurance Company ("Liberty"), pursuant to Rules 201(a) and 201(d) of the Federal Rules of Evidence, respectfully requests this court take judicial notice of the following documents filed in the underlying action known as

1 Gabbert, et al. v. Blatt, et al., Marin County Superior Court, Case no. CIV 020477, in
2 support of Liberty's application for default judgment by the court against Michael T.
3 Blatt:

- 4 1. Judgment on Verdict in Open Court filed February 27, 2004. A true and
5 correct copy of this document is attached hereto as Exhibit 5.
6
- 7 2. Amended Judgment on Verdict in Jury Trial filed June 30, 2004. A true
8 and correct copy of this document is attached hereto as Exhibit 6; and
9
- 10 3. Register of Actions for Gabbert, et al., v. Michael T. Blatt, et al., Marin
11 County Superior Court, Case No. CIV 020477. A true and correct copy of
12 this document is attached hereto as Exhibit 7.
13

14
15 DATED: July 20, 2006

PETERSON & BRADFORD

16
17
18 By: 

Ronald J. Skocypec, Esq.
Melodee A. Yee, Esq.

20
21 Attorneys for Plaintiff
Liberty Mutual Insurance Company
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MEMORANDUM OF POINTS AND AUTHORITIES

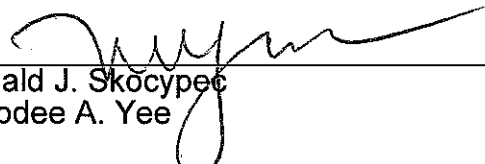
I.

**THIS COURT MUST TAKE JUDICIAL NOTICE OF THE
ADJUDICATIVE FACTS CONTAINED IN THE
DOCUMENTS REFERRED TO IN THIS REQUEST**

Rules 201(a) and 201(b) of the Federal Rules of Evidence provide that judicial notice may be taken of adjudicative facts (i.e., facts of the particular case or which relate to the parties) "capable of accurate ready determination by resort to sources whose accuracy cannot reasonably be questioned." Pursuant to Rule 201(d), judicial notice is mandatory when the Court is "requested by a party and supplied with the necessary information." Accordingly, this court must take judicial notice of the attached judgment, the amended judgment and the register of actions on file in the Underlying Action known as Gabbert, et al., v. Michael T. Blatt, et al., Marin County Superior Court, Case No. CIV 020477, in support of Liberty's application for default judgment by the court against defendant, Michael T. Blatt.

DATED: July 20, 2006

PETERSON & BRADFORD, LLP



Ronald J. Skocypec
Melodee A. Yee

Attorneys for Plaintiff
LIBERTY MUTUAL INSURANCE COMPANY

FILED

MARIN COUNTY SUPERIOR COURT
State of California
P. O. BOX 4988
San Rafael, CA 94913-4988

FEB 27 2004

JOHN P. MONTGOMERY,
Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Montgomery, Deputy

PLAINTIFF(S):

JAMES GABBERT AND MICHAEL LINCOLN

VS.

DEFENDANT(S):

MICHAEL BLATT AND CATHERINE BLATT

CASE NO. CV 020477

JUDGMENT ON VERDICT IN OPEN COURT

This cause came on regularly for trial on FEBRUARY 11, 13, 17, 18, 19, 20, 24, 25, 26, and
27, 2004

ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER appearing as counsel for the plaintiff(s), and
RONALD FOREMAN AND JACQUELINE HAMILTON. JOSEPH appearing for the defendant(s). A jury of
12 persons was duly accepted, impaneled, and sworn to try the case. RYAN FOR CRDF-SCHNABEL FOUNDATION COMPANY
Witnesses were sworn and examined.

After hearing the evidence, the arguments of counsel, and instructions of the court, the cause was submitted to the jury, and the jury retired to deliberate. The jury subsequently returned into court, and rendered the following verdict:

See attached verdicts

IT IS ORDERED THAT the judgment be entered accordingly.

Judgment entered on 2 / 27 / 2004

I certify the attached to be a correct copy of the judgment entered in the above-entitled action.

Executed at San Rafael, California

JOHN P. MONTGOMERY
Court Executive Officer

By _____
Deputy

FILED

FEB 27 2004

JOHN P. MONTGOMERY,
Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: J. Minkiewicz, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MARIN - UNLIMITED JURISDICTION

JAMES GABBERT AND MICHAEL
LINCOLN,

Plaintiffs,

v.

MICHAEL BLATT, CATHERINE
BLATT,

Defendants.

CASE NO. CV 020477

SPECIAL VERDICT

MICHAEL BLATT AND CATHERINE
BLATT,

Cross-complainants,

v.

JAMES GABBERT, MICHAEL
LINCOLN, AND SCHNABEL
FOUNDATION COMPANY,

Cross-defendants.

Trial Date: February 6, 2004
Time: 9:00 a.m.
Dept: L

SPECIAL VERDICT

- 1 -

1 We, the jury in the above-entitled action, find the following special verdict on the
2 questions submitted to us:

3 **Plaintiffs James Gabbert and Michael Lincoln's Cause of Action For Breach of**
4 **Written Contract**

5 **Question No.1:** Did Michael and Catherine Blatt breach the written real estate
6 purchase agreement?

7 Answer "yes" or "no".

8 Answer:

Yes ~~11-1~~

9 If you answer Question No. 1 "no", then answer Question No. 6. If you answer Question
10 No. 1 "yes", then answer Question No. 2.

11 **Question No. 2:** Did Michael and Catherine Blatt's breach of the written real
12 estate purchase agreement cause damages to James Gabbert and Michael Lincoln?

13 Answer "yes" or "no".

14 Answer:

Yes ~~11-1~~

15 If you answer Question No. 2 "no", then answer Question No. 6. If you answer Question
16 No. 2 "yes", then answer Question No. 3.

17 **Question No. 3:** What do you find to be the total amount of damages suffered by
18 James Gabbert and Michael Lincoln that were caused by Michael and Catherine Blatt's
19 breach of the written real estate purchase agreement?

20 Answer:

\$ 1 12-0

21 Answer question No. 4.

22 **Question No. 4:** Were any of these damages caused by the work of Schnabel
23 Foundation? No ~~11-0-1~~

24 If you answer question No. 4 "no", go to question No. 6. If you answer question
25 No. 4 "yes", go to question No. 5 and answer question No. 33.

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27 ///

28 **SPECIAL VERDICT**

- 2 -

1 Question No. 5: If you have answered question No. 4 "yes", what is the amount of
2 damages caused by the work of Schnabel Foundation?

3 Answer: \$ _____

4 Answer question No. 6.
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SPECIAL VERDICT

- 3 -

1 Plaintiffs James Gabbert and Michael Lincoln's Cause of Action for Negligence

2 Question No. 6: Were Michael and Catherine Blatt negligent? Answer "yes" or

3 "no".

4 Answer: YES - 10-1-1 11-1

5 If you answer Question No. 6 "no", go to Question No. 14. If you answer Question
6 No. 6 "yes", then answer Question No. 7.

7 Question No. 7: Was Michael and Catherine Blatt's negligence a cause of damage
8 to James Gabbert and Michael Lincoln? Answer "yes" or "no".

9 Answer: 12-0 YES

10 If you answer Question No. 7 "no", go to Question No. 14. If you answer Question
11 No. 7 "yes", then answer Question No. 8.

12 Question No. 8: Without taking into consideration the effect on damages due to the
13 negligence of James Gabbert and Michael Lincoln or others, if any, what do you find to be
14 the total amount of damages suffered by James Gabbert and Michael Lincoln and caused
15 by the negligence of Michael and Catherine Blatt? 388,254

16 Answer: \$ 888,374 388,254 379,883
17 12-0 < 91,509 >

18 If you answer Question No. 8 "none", go to Question No. 14. If you answer
19 Question No. 8 with an amount of money, answer Question No. 9.

20 Question No. 9: Were any of these damages caused by the work of Schnabel
21 Foundation? NO 12-0

22 If you answer question No. 9 "no", go to question No. 11. If you answer question
23 No. 9 "yes", go to question No. 10 and answer question No. 33.

24 Question No. 10: If you have answered question No. 9 "yes", what is the amount
25 of damages caused by the work of Schnabel Foundation?

26 Answer: \$

27 Answer Question No. 11. NO

28 SPECIAL VERDICT

1 Question No. 11: Were James Gabbert and Michael Lincoln negligent? Answer
2 "yes" or "no".

3 Answer: Yes 12-0

4 If you answer Question No. 11 "no", do not answer Question No. 12. Instead,
5 proceed directly to Question No. 14. If you answer Question No. 11 "yes", then answer
6 Question No. 12.

7 Question No. 12: Was the negligence of James Gabbert and Michael Lincoln
8 damage to themselves? Answer "yes" or "no".

9 Answer: Yes 12-0

10 If you answer Question No. 12 "no", do not answer Question No. 13. Instead,
11 proceed directly to Question No. 14. If you answer Question No. 12 "yes", then answer
12 Question No. 13.

13 Question No. 13: If 100% represents the total negligence that was the cause of the
14 James Gabbert and Michael Lincoln damage, what percentage of this 100% is due to the
15 contributory negligence of James Gabbert and Michael Lincoln?

16 Answer: To plaintiffs: 10% 12-0

17 Answer question No. 14.
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SPECIAL VERDICT

- 5 -

1 **Plaintiffs James Gabbert and Michael Lincoln's Cause of Action For Fraud**

2 **Question No. 14: Did Michael Blatt conceal or suppress a material fact?**

3 Answer "yes" or "no".

4 Answer: No ~~FO-2~~ 11-1

5 If you answer Question No. 14 "no", then answer Question No. 20. If you answer
6 Question No. 14 "yes", then answer Question No. 15.

7 **Question No. 15: Did Michael Blatt intentionally conceal or suppress the fact with**
8 **the intent to defraud James Gabbert and Michael Lincoln?**

9 Answer "yes" or "no".

10 Answer:

11 If you answer Question No. 15 "no", answer Question No. 20. If you answer
12 Question No. 15 "yes", then answer Question No. 16.

13 **Question No. 16: Were James Gabbert and Michael Lincoln aware of the fact at**
14 **the time they acted?**

15 Answer "yes" or "no".

16 Answer:

17 If you answer Question No. 16 "yes", answer Question No. 20. If you answer
18 Question No. 16 "no", then answer Question No. 17.

19 **Question No. 17: Would James Gabbert and Michael Lincoln have acted in the**
20 **way they acted if they had known of the concealed or suppressed fact?**

21 Answer "yes" or "no".

22 Answer:

23 If you answer Question No. 17 "yes", go to Question No. 20. If you answer
24 Question No. 17 "no", then answer Question No. 18.

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SPECIAL VERDICT

- 6 -

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GGLS

PAGE 12/43

1 Question No. 18: Did Michael Blatt's concealment or suppression of the fact cause
2 James Gabbert and Michael Lincoln damage?

3 Answer "yes" or "no".

4 Answer:

5 If you answer Question No. 14 "no", go to Question No. 20. If you answer Question
6 No. 18 "yes", then answer Question No. 19.

7 Question No. 19: What is the total amount of all damage that was suffered by
8 James Gabbert and Michael Lincoln that was caused by the concealment or suppression of
9 the fact?

10 Answer: \$ _____

11 Answer Question No. 20.

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SPECIAL VERDICT

- 7 -

Plaintiffs Cause of Action For Negligent Misrepresentation

Question No. 20: Did Michael Blatt represent to James Gabbert and Michael Lincoln that an important fact was true?

Answer "yes" or "no".

Answer: Yes 11-1

If you answer Question No. 20 "yes", answer Question No. 21. If you answer Question No. 20 "no", then answer Question No. 30.

Question No. 21: Was Michael Blatt's representation not true?

Answer "yes" or "no".

Answer: Yes ~~11-1~~ 11-1

If you answer Question No. 21 "yes", answer Question No. 22. If you answer Question No. 21 "no", then answer Question No. 30.

Question No. 22: Did Michael Blatt have no reasonable grounds for believing the representation was true when he made it?

Answer "yes" or "no". No 12-0

Answer:

If you answer Question No. 22 "yes", answer Question No. 23. If you answer Question No. 22 "no", then answer Question No. 30.

Question No. 23: Did Michael Blatt intend that James Gabbert and Michael Lincoln rely on this representation?

Answer "yes" or "no".

Answer:

If you answer Question No. 23 "yes", answer Question No. 24. If you answer Question No. 23 "no", then answer Question No. 30.

III

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III

SPECIAL VERDICT

- 8 -

1 Question No. 24: Did James Gabbert and Michael Lincoln reasonably rely on
2 Michael Blatt's representation?

3 Answer "yes" or "no".

4 Answer:

5 If you answer Question No. 24 "yes", answer Question No. 25. If you answer
6 Question No. 24 "no", then answer Question No. 30.

7 Question No. 25: Were James Gabbert and Michael Lincoln damaged as a result of
8 relying on the representation of fact?

9 Answer "yes" or "no".

10 Answer:

11 If you answer Question No. 25 "yes", answer Question No. 26. If you answer
12 Question No. 25 "no", then answer Question No. 30.

13 Question No. 26: Was James Gabbert and Michael Lincoln's reliance on Michael
14 Blatt's representation a substantial factor in causing their harm or damage?

15 Answer "yes" or "no".

16 Answer:

17 If you answer Question No. 26 "yes", answer Question No. 27. If you answer
18 Question No. 26 "no", then answer Question No. 30.

19 Question No. 27: What is the total amount of all damage that was suffered by
20 James Gabbert and Michael Lincoln that was caused by the negligent misrepresentation?

21 Answer: \$ _____

22 Answer Question No. 28.

23 Question No. 28: Were any of these damages caused by Schnabel Foundation?

24 If you answer question No. 28 "no", go to question No. 30. If you answer question
25 No. 28 "yes", go to question No. 29 and answer question No. 33.

26 ///

27 ///

28 ///

SPECIAL VERDICT

1 Question No. 29: If you have answered question No. 28 "yes", what is the amount
2 of damages caused by the work of Schnabel Foundation?

3 Answer: \$ _____

4 Answer question No. 30.
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SPECIAL VERDICT

- 10 -

Cross-complainants' Cause of Action For Breach of Oral Contract

Question No. 30: Did James Gabbert and Michael Lincoln breach the oral repair contract?

Answer "yes" or "no".

Answer: yes 12-0

If you answer Question No. 30 "no", go to question No. 33. If you answer Question No. 30 "yes", then answer Question No. 31.

Question No. 31: Did James Gabbert and Michael Lincoln's breach of the oral repair contract cause damages to Michael Blatt and Catherine Blatt?

Answer "yes" or "no". yes 10-7-1-3 100 12-0

Answer:

If you answer Question No. 31 "no", go to question No. 33. If you answer Question No. 31 "yes", then answer Question No. 32.

Question No. 32: What do you find to be the total amount of damages suffered by Michael Blatt and Catherine Blatt that was caused by James Gabbert and Michael Lincoln's breach of the oral repair contract?

Answer: \$ 10 100

Answer question No. 33.

SPECIAL VERDICT

- 11 -

Indemnity Cause of Action Against Schnabel Foundation

Question No. 33: If you've answered by inserting a dollar amount in response to question 5, 10, and 29, do you find that Schnabel Foundation was negligent?

If you've answered question 33 "no", sign and return this verdict. If you've answered question 33 "yes", answer question 34.

Question No. 34: Was Schnabel Foundation's negligence a cause of the damages you have found in response to question 5, 10, and 29?

Answer:

If you have answered question 34 "no", sign and return this verdict. If you have answered question 34 "yes", answer question 35.

Question No. 35: If 100% represents the total of all negligence which caused the damages which you found in response to question 5, 10, and 29, what percentage of the total negligence do you attribute to the following persons:

Plaintiffs Gabbert/Lincoln	_____ %
Defendant Blatt	_____ %
Cross-Defendant Schnabel	_____ %
Total:	100%

Sign and return this verdict.

Dated: 2/27/04


Foreperson

SPECIAL VERDICT

- 12 -

(STATE OF CALIFORNIA)
(COUNTY OF MARIN)

JAMES GABBERT AND MICHAEL LINCOLN v. MICHAEL BLATT AND
CATHERINE BLATT

ACTION # CV 020477

(PROOF OF SERVICE BY MAIL)

I AM A CITIZEN OF THE UNITED STATES AND AN EMPLOYEE OF THE MARIN
COUNTY SUPERIOR COURT; I AM OVER THE AGE OF EIGHTEEN YEARS AND NOT A
PARTY TO THE WITHIN ABOVE-ENTITLED ACTION; MY BUSINESS ADDRESS IS
CIVIC CENTER, HALL OF JUSTICE, SAN RAFAEL, CA 94903. ON *March 1, 2004* I
SERVED THE WITHIN JUDGMENT ON VERDICT IN OPEN COURT IN SAID ACTION
TO ALL INTERESTED PARTIES, BY PLACING A TRUE COPY THEREOF ENCLOSED IN
A SEALED ENVELOPE WITH POSTAGE THEREON FULLY PREPAID, IN THE UNITED
STATES POST OFFICE MAIL BOX AT SAN RAFAEL, CA, ADDRESSED AS FOLLOWS:

ALEXANDER ANOLIK
JOHN CROSSFIELD
ALEXANDER PEVZNER
2107 VAN NESS AVENUE, SUITE 200
SAN FRANCISCO, CA 94109-2536

RONALD FOREMAN
JACQUELINE HAMILTON
FOREMAN & BRASSO
930 MONTGOMERY STREET, SUITE 600
SAN FRANCISCO, CA 94133

JOSEPH RYAN
RYAN AND LIFTER
2010 CROW CANYON PLACE, SUITE 330
SAN RAMON, CA 94583-1344

I CERTIFY (OR DECLARE), UNDER PENALTY OF PERJURY UNDER THE LAWS OF
THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: 3-1-04

J. M. [Signature]

07/19/2006 14:39 4157857771

GGLS

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1 Ronald D. Foreman, Esq. (SB No. 061148)
 Jacqueline C. Hamilton, Esq. (SB 187732)
 2 FOREMAN & BRASSO
 930 Montgomery Street, Suite 600
 3 San Francisco, CA 94133
 Telephone: (415) 433-3475
 4 Facsimile: (415) 781-8030
 5 Attorneys for Defendants,
 Cross-complainants, and Cross-defendants
 6 Michael Blatt and Catherine Blatt

FILED

JUN 30 2004

JOHN A. MONTGOMERY,
 County Executive Officer,
 MARIN COUNTY SUPERIOR COURT
 By: S. McConnell, Deputy

7
 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 COUNTY OF MARIN - UNLIMITED JURISDICTION

10 JAMES GABBERT AND MICHAEL
 11 LINCOLN,

CASE NO. CV 020477

12 Plaintiffs,

AMENDED JUDGMENT ON
 VERDICT IN JURY TRIAL

13 v.

14 MICHAEL BLATT, CATHERINE
 15 BLATT, PETER KANE and DOES 1-100,
 inclusive,

16 Defendants

17
 18 AND RELATED CROSS-ACTIONS
 19

20
 21 This action came on regularly for trial on February 11, 13, 17, 18, 19, 20, 24, 25, 26 and 27,
 22 2004, in Department L of the Marin Superior Court, the Honorable Lynn M. Duryee presiding.
 23 Alexander Anolik, John Crossfield and Alexander Pevzner, appeared as attorneys for plaintiffs
 24 James Gabbert and Michael Lincoln. Ronald D. Foreman and Jacqueline Hamilton appeared as
 25 attorneys for defendants Michael Blatt and Catherine Blatt. Joseph Ryan, appeared as attorney for
 26 cross-defendants Schnabel Foundation Company.

27
 28 AMENDED JUDGMENT ON
 VERDICT IN JURY TRIAL

- 1 -

FILED

TIN 01 2004 12:25

07/19/2006 14:39

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GGLS

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NU.546 0003

1 A jury of 12 persons was impaneled and sworn. Witnesses were sworn and testified. After
2 hearing the evidence and the arguments of attorneys, the jury was instructed by the court and retired
3 to consider its verdict.

4 After returning into court and being called, the jurors answered to their names and rendered
5 their verdict in writing pursuant to the terms of a Special Verdict. Judgment was entered by the
6 Clerk of the Court on February 27, 2004 in accord with the findings of the Special Verdict.

7 On April 28, 2004, the Court heard and Denied Michael and Catherine Blatt's Motion for
8 Judgment Notwithstanding the Verdict. On May 4, 2004 the Court Granted and Denied, in part,
9 Michael and Catherine Blatt's Motion to Tax Costs.

10 Now, the Court hereby amends the February 27, 2004 Judgment on Verdict in Jury Trial as
11 follows:

12 IT IS ADJUDGED, DECREED and ORDERED that:

- 13 1. Plaintiffs James Gabbert and Michael Lincoln shall recover judgment on the merits
14 against defendants Michael Blatt and Catherine Blatt in the amount of \$144,428.60,
15 after the Court applies the appropriate deductions for pretrial settlement credits.
- 16 2. Plaintiffs James Gabbert and Michael Lincoln shall recover against defendants
17 Michael Blatt and Catherine Blatt, their attorneys fees in the amount of \$286,669.
- 18 3. Plaintiffs James Gabbert and Michael Lincoln shall recover against defendants
19 Michael Blatt and Catherine Blatt their costs in the amount of \$13,634.85.
- 20 4. Cross-complainants Michael Blatt and Catherine Blatt shall recover nothing from
21 cross-defendants Schnabel Foundation Company, James Gabbert and Michael
22 Lincoln.

23 DATED: June 30 2004

24 
25 Judge of the Marin County Superior Court

26 ENFAB:BlattPleadings/amended judgment.wpd
27

28 AMENDED JUDGMENT ON
VERDICT IN JURY TRIAL

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

1/26/2004

MINUTE ORDER POSTED - Appearance: 1/26/2004 at 09:00 AM for SETTLEMENT CONFERENCE

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

APPEARANCE BY PRO TEM PANELIST: JOEL BIERER.

ATTORNEY ALEXANDER ANOLIK APPEARED FOR AND WITH PLAINTIFF, JAMES GABBERT

ATTORNEY RONALD FOREMAN APPEARED FOR AND WITH DEFENDANT, MICHAEL BLATT

ATTORNEY CHRISTY GAULTBALD APPEARED FOR DEFENDANT, AND WITH INS. REP., ROXANNE MORRIS

ATTORNEY MARY KAY GLASPY APPEARED FOR DEFENDANT AND WITH INS. REP., RAND CRITTAN

ATTORNEY MICHAEL DELEY APPEARED FOR DEFENDANT AND WITH INS. REP., MIKE BARNETT

SETTLEMENT CONFERENCE HELD

PARTIAL SETTLEMENT OF THE CASE IS REPORTED AS TO HAROLD BRAY AND QUALITY CUSTOMS & MECHANICAL

SETTLEMENT RECITED INTO THE RECORD. THE PARTIES UNDERSTAND AND AGREE TO THE TERMS AND CONDITIONS CONTAINED THEREIN. THE COURT APPROVES THE SETTLEMENT AND ORDERS THE PARTIES TO COMPLY. THE SETTLEMENT IS ENFORCEABLE PURSUANT TO CCP 664.6.

IT IS ORDERED: GOOD FAITH SETTLEMENT MOTION AS TO HAROLD BRAY IS SET ON THE CALENDAR FOR 2-3-04. OPPOSITION DUE 1-27-04. REPLY DUE 2-2-04 BY NOON. CMC RE DISMISSAL AS TO QUALITY CUSTOMS & MECHANICAL ON 3-5-04. NO APPEARANCE NECESSARY BY COUNSEL IF DISMISSAL IS FILED IF A DISMISSAL IS NOT FILED AND AN APPEARANCE IS NOT MADE THE COURT WILL DISMISS THE PARTY.

APPEARANCE ADDED ON FOR: 02/03/2004 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 07

HEARING CONFIRMED FOR: 03/05/2004 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 07

IT IS ORDERED: SETTLEMENT CONFERENCE CONTINUED TO 2-2-04 @ 9:00 A.M.

HEARING CONTINUED TO: 02/02/2004 AT: 09:00 AM FOR APPEARANCE TYPE: STLC IN DEPARTMENT: 07
FROM DATE: 01/26/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: STLC FROM DEPARTMENT: 07

HEARING BEFORE TRIAL

ENTERED BY: JM

1/29/2004

JURY FEE DEPOSIT \$150.00 PAID BY ATTY. FOR PLTF.

2/2/2004

MINUTE ORDER POSTED - Appearance: 2/2/2004 at 09:00 AM for SETTLEMENT CONFERENCE

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER NOT REPORTED, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK APPEARED FOR AND WITH PLAINTIFF'S JAMES GABBERT AND MICHAEL LINCOLN.

ATTORNEY RONALD FOREMAN APPEARED FOR AND WITH DEFENDANT, MICHAEL BLATT

ATTORNEY JOSEPH RYAN APPEARED FOR CRDF, SCHNABEL FOUNDATION AND WITH INS REP., MICHAEL BARNETT

APPEARANCE BY PRO TEM PANELIST: PETER SHERWOOD

SETTLEMENT CONFERENCE HELD

CASE REPORTED NOT SETTLED

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV-020477

TRIAL DATE 2-5-04 REMAINS AS SET.

HEARING BEFORE TRIAL

ENTERED BY: JM

2/3/2004 MINUTE ORDER POSTED - Appearance: 2/3/2004 at 09:00 AM for MOTION
 JUDGE/PROTEM/REFEREE LYNN DURYEE , REPORTER NOT REPORTED , DEP CLK J. MINKIEWICZ
 NO APPEARANCE BY OR FOR THE PARTIES
 THE MATTER IS NOT HEARD OR REPORTED. THE TENTATIVE RULING IS FINAL.
 MOTION GRANTED : NO OPPOSITION A GOOD CAUSE APPEARING, THE MOTION FOR GOOD FAITH
 SETTLEMENT IS GRANTED.

HEARING BEFORE TRIAL

ENTERED BY: JM

2/3/2004 IT IS ORDERED: THAT CROSS-DEFENDANT HAROLD JOHN BRAY, JR. DBA H. BRAY CONSTRUCTION'S
 MOTION FOR DETERMINATION FOR GOOD FAITH SETTLEMENT IS GRANTED. HON. LYNN DURYEE

2/5/2004 MINUTE ORDER POSTED - Appearance: 2/5/2004 at 09:00 AM for A JURY TRIAL **
 JUDGE/PROTEM/REFEREE LYNN DURYEE , REPORTER DEBORAH BARTUNEK , DEP CLK J. MINKIEWICZ
 ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND
 WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN
 ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR DEFENDANTS
 ATTORNEY JOSEPH RYAN APPEARED FOR CRDF, SCHNABEL FOUNDATION COMPANY
 MATTER COMES ON FOR JURY TRIAL THIS DATE. COURT TRIAL ALSO SCHEDULED TODAY LEADS THIS
 MATTER.
 IT IS ORDERED: ISSUE CONFERENCE CONTINUED TO: 2-10-04 @ 10:00 A.M BY COURT. JURY TRIAL TO
 FOLLOW.

HEARING CONFIRMED FOR: 02/10/2004 AT: 10:00 AM FOR APPEARANCE TYPE: ISCF IN DEPARTMENT: 07
 HEARING CONTINUED TO: 02/10/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRCL IN DEPARTMENT: 07
 FROM DATE: 02/06/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRCL FROM DEPARTMENT: 07

2/10/2004 MINUTE ORDER POSTED - Appearance: 2/10/2004 at 10:00 AM for ISSUE CONFERENCE
 JUDGE/PROTEM/REFEREE LYNN DURYEE , REPORTER DEBORAH BARTUNEK , DEP CLK J. MINKIEWICZ
 MATTER COMES BEFORE THE COURT FOR HEARING ON MOTIONS IN LIMINE, JURY INSTRUCTIONS AND
 MARKING EXHIBITS PER PRE TRIAL ORDER ISSUED ON 2-9-04..
 ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND
 WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN
 ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR DEFENDANTS
 ATTORNEY JOSEPH RYAN APPEARED FOR CRDF - SCHNABEL FOUNDATION COMPANY
 MOTION DENIED : PLAINTIFF'S MOTION IN LIMINE #1 - TO EXCLUDE WITNESSES BRETT FERRARI AND JACK
 SCOTT FROM TESTIFYING AT THE TIME OF TRIAL.

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/28/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

MOTION GRANTED : PLAINTIFF'S MOTION IN LIMINE #2 - TO EXCLUDE CERTAIN EVIDENCE OF PLAINTIFF'S WEALTH.

DEFENDANT'S MOTION IN LIMINE #1 - GRANTED AS TO EXCLUSION OR REFERENCE TO OR EVIDENCE OF PETER KANE'S INVOLVEMENT IN THIS TRANSACTION AS A JOINT VENTURE PARTNER. RULING IS RESERVED AS TO THE COMMISSION PORTION OF THE MOTION.

MOTION GRANTED : DEFENDANT'S MOTION IN LIMINE # 2 - TO EXCLUDE ANY EVIDENCE REGARDING FINANCIAL WORTH AND TO BIFURCATE PUNITIVE DAMAGES.

MOTION GRANTED : DEFENDANT'S MOTION IN LIMINE #3 - TO EXCLUDE EVIDENCE OF OR REFERENCE TO DEFENDANT'S CRIMINAL CASES.

DEFENDANT'S MOTION IN LIMINE # 4 - TO EXCLUDE ANY ARGUMENT THAT THE CITY OF SAUSALITO RED-TAGGED THE PROJECT OR ISSUED A STOP WORK ORDER. GRANTED AS TO THE GATE. DENIED AS TO THE DECK.

MOTION GRANTED : DEFENDANT'S MOTION IN LIMINE # 5 - TO EXCLUDE STATEMENTS MADE ON VIDEOTAPE

DEFENDANT'S MOTION IN LIMINE # 6 - TO EXCLUDE REFERENCES TO OTHER REAL ESTATE PROJECTS. (NOT RULED ON AT THIS TIME).

MOTION GRANTED : DEFENDANT'S MOTION IN LIMINE #7 - TO EXCLUDE EVIDENCE THAT DEFENDANT HAS A HABIT OR CUSTOM OF CONSTRUCTING SUBSTANDARD HOMES; AND TO EXCLUDE ANY REFERENCE TO "SHODDY CONSTRUCTION" OR "CHEAP CONSTRUCTION"

DEFENDANT'S MOTION IN LIMINE #8 - TO EXCLUDE EVIDENCE OF DIMINUTION OF VALUE OF THE PROPERTY. (RULING RESERVED AT THIS TIME PENDING AUTHORITY)

DEFENDANT'S MOTION IN LIMINE #9 - TO EXCLUDE ANY REFERENCE OR ARGUMENT THAT PLAINTIFFS DID NOT PURCHASE CONDOMINIUMS OR SUFFERED SOME OTHER HARM RESULTING FROM WHAT ONE CALLS THE BRIDGEWAY STRUCTURES. (NOT RULED ON AT THIS TIME.)

DEFENDANT'S MOTION IN LIMINE # 10 - TO EXCLUDE REFERENCE OR EVIDENCE OF INSURANCE. (SUBMITTED)

MOTION DENIED : DEFENDANT'S MOTION IN LIMINE TO VIEW THE PREMISES. (UNLESS RECREATION IN COURT IS NOT POSSIBLE)

DEFENDANT'S MOTION IN LIMINE #12 - REPEATS # 5 IS WITHDRAWN.

DEFENDANT'S MOTION IN LIMINE # 13 - TO EXCLUDE DOCUMENTS NOT PRODUCED IN DISCOVERY. (RULING RESERVED)

MOTION GRANTED DEFENDANT'S MOTION IN LIMINE # 14 - TO LIMIT EXPERT TESTIMONY AND TO PREVENT NON-DISCLOSED EXPERTS FROM TESTIFYING.

MOTION DENIED : DEFENDANT'S MOTION IN LIMINE # 15 - TO PREVENT PLAINTIFF'S EXPERT FROM EXPRESSING ANY OPINION ON THE VIOLATION OF BUILDING CODES OR APPLICABLE STANDARDS AS IT INVADES THE PROVINCE OF THE COURT.

MOTION DENIED : DEFENDANT'S MOTION IN LIMINE # 16 - TO EXCLUDE EVIDENCE OF PLAINTIFF'S CLAIMS FOR BREACH OF EXPRESS AND IMPLIED WARRANTY.

MOTION DENIED : DEFENDANT'S MOTION IN LIMINE #17 - TO EXCLUDE ANY EVIDENCE OF OR MENTION OF FRAUD. ABSENT AN OFFER OF PROOF SUPPORTING PLAINTIFF'S FRAUD CLAIMS.

MOTION DENIED : CROSS-DEFENDANT SCHNABEL'S MOTION IN LIMINE # 1 - TO PRECLUDE TESTIMONY BY PAUL WEIR CONCERNING DESIGN NEGLIGENCE OF SCHNABEL.

THE COURT INSTRUCTS THE PARTIES ON PREPARATION OF JUROR NOTEBOOKS.

07/19/2006 14:39 4157857771

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2006
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CIV 020477

COURT'S EXHIBITS MARKED

COURT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #1 - SALES CONTRACT #2 - TRAVIS LIST #3 - TRAVIS CONTRACT #4 - CITY OF SAUSALITO BUILDING DIVISION #5 - CITY OF SAUSALITO INSPECTION RECORD #6 - SAABCO CONSULTING LETTER DATED 6-22-98 #7 - GEOENGINEERING LETTER DATED 7-8-02

COURT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #8 - PROPOSAL #9 - PHOTO OF DRAINAGE ISSUES #10 - PHOTO OF MISC ISSUES #11 - PHOTO POSTER OF BUILDING #12 - PHOTO OF CONCRETE, DRAINAGE AND FOUNDATION ISSUES

COURT'S EXHIBIT(S) #1 THROUGH 12 PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

DEFENSE COUNSEL OBJECTS TO ISSUE OF MOLD BEING ADDRESSED IN COURT.

IT IS ORDERED: OBJECTION DENIED.

DEFENDANT SUBMITS MOTION TO EXCLUDE WITNESSES FROM THE COURTROOM.

IT IS ORDERED: GRANTED.

STIPULATIONS DISCUSSED.

COURT ADJOURNED AT 4:30 P.M.

HEARING BEFORE TRIAL

ENTERED BY: JM

2/10/2004 HEARING CONTINUED TO: 02/11/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRCL IN DEPARTMENT: 07 FROM DATE: 02/10/2004 FROM TIME: 10:00 AM FROM APPEARANCE TYPE: TRCL FROM DEPARTMENT: 07

2/11/2004 MINUTE ORDER POSTED - Appearance: 2/11/2004 at 09:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT, MICHAEL BLATT

ATTORNEY JOSEPH RYAN APPEARED FOR CRDF, SCHNABEL FOUNDATION COMPANY

MATTER COMES BEFORE THE COURT ON COMPLAINT FILED BY JAMES GABBERT AND MICHAEL LINCOLN ON 1-29-02 FOR BREACH OF CONTRACT.

THIS MATTER COMING ON REGULARLY FOR FIRST DAY OF JURY TRIAL

FIRST DAY JURY TRIAL COMMENCED

ALL PROSECUTIVE JURORS ARE PRESENT IN COURT

AT 10:05 A.M.

AT 10:20 A.M. A.M./P.M. A 60 PANEL OF PROSPECTIVE JURORS SWORN

PROSPECTIVE JURORS ARE CALLED AND SEATED IN THE JURY BOX.

COUNSEL AND PARTIES INTRODUCED

COURT INFORMS PROSPECTIVE JURORS AS TO THE NATURE OF THE CAUSE

NAMES OF PROSPECTIVE WITNESSES GIVEN

REGISTER OF ACTIONS

Page 14 of 35

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

COURT REPORTER WAIVED FOR VOIR DIRE EXAMINATION

VOIR DIRE COMMENCES

RECESS DECLARED AT 11:25 A.M.

COURT RECONVENED AT 11:35 A.M. APPEARANCES AS NOTED.

IMPANELMENT RESUMES

PEREMPTORY CHALLENGES BY COUNSEL

RECESS DECLARED AT 12:40 p.m. FOR LUNCH

COURT RECONVENED AT 1:30 P.M. APPEARANCES AS NOTED.

PEREMPTORY CHALLENGES BY COUNSEL

CONTINUES.

JURY SWORN

AT 2:10 P.M.

THE TWELVE JURORS NAMES AS FOLLOWS: 1) BEVERLY ALEXANDER-1, 2) GLENN LESLIE KEYES-23, 3) PETER ASHBY-3, 4) DR. LORETTE LABATAILLE-4, 5) CEDRIC SPENCER YOUNG-22, 6) HARRY THOMAS OTTO-28, 7) RICHARD DAVID ZALON-29, 8) RUTH ANN MARIE SCHNEIDER-24.

CONTINUATION OF JUROR NAMES: 9) ADELAIDE WILSON-25, 10) KATHLEEN H RAKE-10, 11) H DANIEL MC CORMICK-32, 12) WADE DECLARIS-30.

VOIR DIRE OF PROSPECTIVE JURORS FOR SELECTION OF ALTERNATE(S)

ALTERNATE JUROR(S): ALT. #1 - BRENDA ANN OCONNOR-33, ALT. #2 - RUSSELL B. LYMAN-37.

2:30 P.M. - ALTERNATE JURORS SWORN.

ALL REMAINING PROSPECTIVE JURORS ARE THANKED AND EXCUSED.

JURORS ARE ADMONISHED BY THE COURT

RECESS DECLARED AT 2:35 P.M.

COURT RECONVENED AT 2:45 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATES ARE PRESENT IN THE COURTROOM.

COURT INFORMS THE JURY OF THE TRIAL SCHEDULE

OPENING STATEMENT MADE ON BEHALF OF THE PLAINTIFF

OPENING STATEMENT MADE ON BEHALF OF THE DEFENDANT

AT 3:15 P.M.

OPENING STATEMENT MADE ON BEHALF OF CROSS-DEFENDANT, SCHNABEL FOUNDATION COMPANY AT 3:50 P.M.

THE COURT INSTRUCTS THE JURY ON THE LAW AT THIS TIME. JURORS HAVE COPIES AND THEY ARE READ TO THE JURORS. THE COURT WILL GO OVER THE LAW AT THE END OF TRIAL.

COURT REMINDED JURORS OF ADMONITION

COURT ADJOURNED AT 4:15 P.M. FOR THE DAY.

07/19/2006 14:39

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GGLS

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2005
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

HEARING CONTINUED TO: 02/13/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07
FROM DATE: 02/11/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JM

1/2 OF DAILY COURT REPORTER FEE PAID BY PLAINTIFF. CK # 14098 - \$150.00. 1/2 DAILY COURT
REPORTER FEE PAID BY DEFENDANT. CK # 13410 - \$150.00.

2/13/2004

MINUTE ORDER POSTED - Appearance: 2/13/2004 at 09:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER, APPEARED FOR AND
WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT.
MICHAEL BLATT

ATTORNEY JOSEPH RYAN APPEARED FOR CROSS-DEFENDANT. SCHNABEL FOUNDATION COMPANY

THIS MATTER COMING ON REGULARLY FOR SECOND DAY OF JURY TRIAL

9:40 A.M. ALL JURORS AND ALTERNATES ARE PRESENT IN COURT.

WITNESS(ES) SWORN AND TESTIFIED: 9:40 A.M. - JAMES GABBERT ON BEHALF OF PLAINTIFF.

DIRECT EXAMINATION OF JAMES GABBERT BY PLAINTIFFS COUNSEL, ALEXANDER ANOLIK.

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #101 - PHOTO OF
BUILDING #102 - PHOTO OF BUILDING #103 - LETTER DATED 9-20-01 TO MR. FERGUSON. #105 - SITE PLAN
#106 - PHOTO OF PLAN

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #104 - REPAIR-REMODEL LIST

RECESS DECLARED AT 10:50 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 11:00 A.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATES ARE
PRESENT.

JAMES GABBERT RETURNS TO THE WITNESS STAND AND DIRECT EXAMINATION CONTINUES BY
PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #107 - LETTER DATED
9-27-01 FROM MR. BLATT.

11:10 A.M. - CROSS EXAMINATION OF JAMES GABBERT BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #A - LETTER TO
MICHAEL BLATT

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #B - PHOTO, DRAINAGE #C - PHOTO, INSIDE
BUILDING #D - PHOTO, INSIDE BUILDING

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #E - PHOTO, STAIRS
AND RAILINGS #F - PHOTO, STAIRS, RISERS.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #G PHOTO.

11:45 A.M. - CROSS EXAMINATION OF JAMES GABBERT BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

CROSS-DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #A-1 - SKETCH OF DRAIN

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

11:54 A.M. - RE-DIRECT EXAMINATION OF JAMES GABBERT BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

12:02 P.M. RE-CROSS EXAMINATION OF JAMES GABBERT BY DEFENSE COUNSEL, RONALD FOREMAN.

12:04 P.M. - RE-CROSS EXAMINATION OF JAMES GABBERT BY CROSS-DEFENDANT'S COUNSEL, JOSEPH RYAN.

WITNESS(ES) SWORN AND TESTIFIED: 12:05 P.M. - MICHAEL LINCOLN ON BEHALF OF PLAINTIFF.

DIRECT EXAMINATION OF MICHAEL LINCOLN BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

RECESS DECLARED AT 12:20 P.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 12:30 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATES ARE PRESENT IN COURT.

MR. LINCOLN RETURNS TO THE WITNESS STAND. DIRECT EXAMINATION CONTINUES BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

12:33 P.M. CROSS EXAMINATION OF MICHAEL LINCOLN BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #H - PHOTO OF BUILDING WITH MR. LINCOLN #I - PHOTO OF MR. LINCOLN'S PROFILE. #J - ARTIST'S RENDERING OF SITE.

DEFENSE COUNSEL, RONALD FOREMAN READS FROM DEPOSITION TRANSCRIPT OF MICHAEL LINCOLN.

12:46 P.M. RE-DIRECT EXAMINATION OF MICHAEL LINCOLN BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #108 - POSTER OF CASTLE ON BRIDGEWAY

PLAINTIFF'S EXHIBIT(S) #108 - POSTER OF CASTLE ON BRIDGEWAY PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

12:49 P.M. - RECROSS AT TIMES OF MICHAEL LINCOLN BY DEFENSE COUNSEL RONALD FOREMAN.

WITNESS EXCUSED.

WITNESS(ES) SWORN AND TESTIFIED: 12:52 P.M. - ALBERT DUFRESNE ON BEHALF OF PLAINTIFF

DIRECT EXAMINATION OF ALBERT DUFRESNE BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #109 - SUMMARY OF CONSTRUCTION CONDITIONS #110 - SKETCH OF BUILDINGS #111 - SKETCH OF FOUNDATIONS #112 - SKETCH, GARAGE BEAM #113 - SKETCH, MID-FLOOR #114 - SKETCH, UPPER FLOOR #115 - SKETCH, ROOF

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #116 - PHOTO - 435 BRIDGEWAY #117 - PHOTO, 445 ELEVATOR SHAFT IN WATER. GARAGE #118 - PHOTO, 445 ELEVATOR SHAFT, LEAKS #119 - PHOTO, GROWTH ON WALL OF ELEVATOR SHAFT #120 - PHOTO, BEAMS #121 - PHOTO, FOUNDATION #122 - PHOTO, CONCRETE SLAB

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #123 - PHOTO, HARDWARE #124 - PHOTO, STRAPINGS #125 - PHOTO, JOIST HANGERS #126 - PHOTO, FRAMING #127 - PHOTO, FRAMING #128 - PHOTO, SLOPPED FLOORS #129 - PHOTO, STAIRS-RISERS

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #130 - PHOTO, STAIRS-RAILING #131 - SPRINKLER SYSTEMS-VENTS

COURT ADJOURNED AT 1:30 p.m. FOR THE DAY

COURT REMINDED JURORS OF ADMONITION

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2005
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

HEARING CONTINUED TO: 02/17/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07
FROM DATE: 02/13/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JM

1/2 DAILY COURT REPORTER FEE PAID BY PLAINTIFF. CK # 14146 \$150.00. 1/2 DAILY COURT REPORTER
FEE PAID BY DEFENDANT, CK # 13409, \$150.00.

2/17/2004

MINUTE ORDER POSTED - Appearance: 2/17/2004 at 09:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND
WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT,
MICHAEL BLATT

ATTORNEY JOSEPH RYAN APPEARED FOR CRDF - SCHNABEL FOUNDATION COMPANY

THIS MATTER COMING ON REGULARLY FOR THIRD DAY OF JURY TRIAL

JURY IS NOW PRESENT IN OPEN COURT

AT 9:40 A.M.

JUROR # 12 - WADE DECLARIS IS NOT PRESENT AND HAS BEEN EXCUSED FROM JURY SERVICE.

ALTERNATE JUROR # 1 - BRENDA OCONNOR IS SWORN AS JUROR #12.

WITNESS(ES) SWORN AND TESTIFIED: 9:42 A.M. PAUL WEIR ON BEHALF OF PLAINTIFF.

DIRECT EXAMINATION OF PAUL WEIR BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #132 - SKETCH OF
VAPOR BARRIER. #133 - PHOTO OF FLOOR FRAMING #134 - PHOTO, FRAMING #135 - PHOTO, FRAMING #136
- PHOTO, FRAMING #137 - PHOTO, HOLES IN FRAME & PLYWOOD #138 - PHOTO, CONSTRUCTION
CONDITION.

PLAINTIFFS EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #139 - PHOTO, CONST.
CONDITIONS #140 - PHOTO, CONST. CONDITIONS #141 - PHOTO, CONST. CONDITIONS #142 - PHOTO,
CONST. CONDITIONS #143 - PHOTO, CONST. CONDITIONS #144 - PHOTO, CONST. CONDITIONS #145 -
PHOTO, CONST. CONDITIONS

PLAINTIFFS EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #146 - PHOTO -
CONST. CONDITIONS #147 - PHOTO, CONST. CONDITIONS #148 - PHOTO, CONST. CONDITIONS #149 -
PHOTO, CONST. CONDITIONS #150 - PHOTO, CONST. CONDITIONS

PLAINTIFFS EXHIBIT(S) MARKED FOR IDENTIFICATION: #151 - BASE PLATE

RECESS DECLARED AT 10:46 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 11:00 A.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE
PRESENT.

DIRECT EXAMINATION OF PAUL WEIR CONTINUES BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS EXHIBIT(S) MARKED FOR IDENTIFICATION: #152 - JOIST HANGER

RECESS DECLARED AT 12 P.M. FOR LUNCH

07/19/2006 14:39

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 1:30 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #153 - PHOTO STUD WALL #154 - PHOTO STEEL FRAME

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: #155 - PHOTO, STEEL FRAME WITH LEVEL #156 - PHOTO, STEEL FRAME WITH LEVEL

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #157 - PHOTO OF PIPE IN FRAME

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: #158 - HAND RAIL #159 - ARCHITECTS PLANS

2:12 P.M. - CROSS EXAMINATION OF PAUL WEIR BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENSE COUNSEL RONALD FOREMAN READS FROM DEPOSITION TRANSCRIPT OF PAUL WEIR.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #K - BOTTLE OF SNAPPLE #L - DRAWING.

RECESS DECLARED AT 2:45 P.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 3:00 P.M. APPEARANCES AS NOTED ALL JURORS AND ALTERNATE ARE PRESENT.

CROSS EXAMINATION OF PAUL WEIR BY DEFENSE COUNSEL, RONALD FOREMAN CONTINUES.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #M - PHOTO 2-23-03 #N - PHOTO 2-23-03 #O - PHOTO 2-23-03 #P - PHOTO 2-23-03 #Q - PHOTO 2-23-03

3:55 P.M. - CROSS EXAMINATION OF PAUL WEIR BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

CROSS DEFENDANTS EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #B-1 - DRAINAGE SCALE

CROSS DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #C-1 DRAINAGE SCALE #D-1 DRAINAGE SCALE

4:05 P.M. JURORS EXCUSED FOR THE DAY.

COURT REMINDED JURORS OF ADMONITION

COURT AND COUNSEL DISCUSS PLAINTIFFS MOTION OUT OF PRESENCE OF THE JURY

MOTION DENIED : PLAINTIFFS MOTION IN SUPPORT OF INTRODUCING DIMINUTION EXPERT TESTIMONY.

COURT ADJOURNED AT 4:15 P.M. FOR THE DAY.

HEARING CONTINUED TO: 02/18/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07 FROM DATE: 02/17/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JM

1/2 DAILY COURT REPORTER FEE PAID BY PLAINTIFF, CK #14158 \$150.00. 1/2 DAILY REPORTER FEE PAID BY DEFENDANT, CK # 13408, \$150.00.

2/18/2004

MINUTE ORDER POSTED - Appearance: 2/18/2004 at 09:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER KIM SCHROEDER, DEP CLK J. MINKIEWICZ

07/19/2006 14:39

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s)	DATE FILED: 1/29/2002
VS.	CASE TYPE: Civil Complaint
MICHAEL BLATT, ET AL Defendant(s)	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT, MICHAEL BLATT

ATTORNEY JOSEPH RYAN APPEARED FOR CRDF - SCHNABEL FOUNDATION COMPANY

THIS MATTER COMING ON REGULARLY FOR FOURTH DAY OF JURY TRIAL

JURY IS NOW PRESENT IN OPEN COURT

AT 9:35 A.M.

PAUL WEIR RESUMES THE WITNESS STAND AND CROSS EXAMINATION BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN CONTINUES.

CROSS DEFENDANT'S EXHIBIT(S) #C-1 DRAINAGE SCALE PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN READS FROM DEPOSITION TRANSCRIPT OF PAUL WEIR.

10:15 A.M. - RE-DIRECT EXAMINATION OF PAUL WEIR BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #160 - PHOTO TAKEN 2-18-04 #161 - PHOTO TAKEN 2-18-04 #162 - PHOTO TAKEN 2-18-04 #163 - PHOTO TAKEN 2-18-04 #164 - PHOTO TAKEN 2-18-04 #165 - PHOTO TAKEN 2-18-04 #166 - PHOTO TAKEN 2-18-04

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #167 - PHOTO TAKEN 2-18-04 #168 - PHOTO TAKEN 2-18-04

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #169 - PHOTO TAKEN 2-18-04 #170 - PHOTO TAKEN 2-18-04

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #171 - PHOTO TAKEN 2-18-04 #172 - PHOTO TAKEN 2-18-04 #173 - PHOTO TAKEN 2-18-04 #174 - PHOTO TAKEN 2-18-04 #175 - PHOTO TAKEN 2-18-04 #176 - PHOTO TAKEN 2-18-04

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #177 - PHOTO TAKEN 2-18-04

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #178 - PHOTO TAKEN 2-18-04 #179 - PHOTO TAKEN 2-18-04 #180 - APPROVED SET OF PLANS

10:40 A.M. - RE-CROSS EXAMINATION OF PAUL WEIR BY DEFENSE COUNSEL, RONALD FOREMAN.

RECESS DECLARED AT 10:50 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 11:00 A.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

RE-CROSS EXAMINATION OF PAUL WEIR CONTINUES BY DEFENSE COUNSEL, RONALD FOREMAN.

PLAINTIFF'S EXHIBIT(S) #180 - APPROVED SET OF PLANS PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #R - I-BEAM SKETCH

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #S - PLANS (DON OLSON'S)

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #T - DRAWING

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2009
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CIV 020477

11:26 A.M. - RE-CROSS EXAMINATION OF PAUL WEIR BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN

CROSS DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #E-1 - POSTER, DRAINAGE PLANS

WITNESS EXCUSED

WITNESS(ES) SWORN AND TESTIFIED: 11:40 A.M. - GARY POTTENGER ON BEHALF OF PLAINTIFF

DIRECT EXAMINATION OF GARY POTTENGER BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

RECESS DECLARED AT 12 NOON FOR LUNCH

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 1:30 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

DIRECT EXAMINATION OF GARY POTTENGER BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK CONTINUES.

2:27 P.M. - CROSS EXAMINATION OF GARY POTTENGER BY DEFENSE COUNSEL, JACQUELINE HAMILTON.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #U - POTTENGER TIME SHEETS #V - POTTENGER TIME SHEETS #W - POTTENGER TIME SHEETS

DEFENDANT'S EXHIBIT(S) #M - PHOTO 2-23-03 #N - PHOTO 2-23-03 #O - PHOTO PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

DEFENDANT'S EXHIBIT(S) #P - PHOTO #Q - PHOTO PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

RECESS DECLARED AT 2:45 P.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 2:58 P.M. - APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

2:58 P.M. - CROSS EXAMINATION OF GARY POTTENGER BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

3:30 P.M. - RE-DIRECT EXAMINATION OF GARY POTTENGER BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

3:34 P.M. - RE-CROSS EXAMINATION OF GARY POTTENGER BY DEFENSE COUNSEL, JACQUELINE HAMILTON.

WITNESS EXCUSED.

WITNESS(ES) SWORN AND TESTIFIED: 3:35 P.M. - GUY TRAVIS

DIRECT EXAMINATION OF GUY TRAVIS BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #181 - RETRO PAYMENTS MADE

3:53 P.M. - CROSS EXAMINATION OF GUY TRAVIS BY DEFENDANT'S COUNSEL, RONALD FOREMAN.

COURT ADJOURNED AT 4:00 P.M. FOR THE DAY.

COURT REMINDED JURORS OF ADMONITION

HEARING CONTINUED TO: 02/19/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07 FROM DATE: 02/18/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JM

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

1/2 DAILY COURT REPORTER FEE PAID BY PLAINTIFF, CK #14057 \$150.00 PLUS \$234.22 PAYMENT TOWARDS JURY FEES. 1/2 DAILY COURT REPORTER FEE PAID BY DEFENDANT, CK #13416, \$150.00

2/19/2004

MINUTE ORDER POSTED - Appearance: 2/19/2004 at 09:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT, MICHAEL BLATT

ATTORNEY JOSEPH RYAN APPEARED FOR CROSS DEFENDANT, SCHNABEL FOUNDATION COMPANY.

THIS MATTER COMING ON REGULARLY FOR FIFTH DAY OF JURY TRIAL

COURT AND COUNSEL DISCUSS PLAINTIFF'S REQUEST TO ADMIT EXHIBITS 110-131 OUT OF PRESENCE OF THE JURY

IT IS ORDERED: EXHIBITS NOT ADMITTED AT THIS TIME. MATTER SUBMITTED.

JURY IS NOW PRESENT IN OPEN COURT

AT 9:30 A.M.

GUY TRAVIS RESUMES THE WITNESS STAND. CROSS-EXAMINATION OF WITNESS BY DEFENSE COUNSEL, RONALD FOREMAN CONTINUES.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #X - TRAVIS INVOICE #Y - TRAVIS INVOICE 8-16-03 #Z - TRAVIS INVOICE 11-12-03 #AA - TRAVIS INVOICE 11-12-03

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #BB - STATEMENT OF ENGINEERING SERVICES

10:14 A.M. - CROSS EXAMINATION OF GUY TRAVIS BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

10:20 A.M. - RE-DIRECT EXAMINATION OF GUY TRAVIS BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

10:22 A.M. - RE-CROSS EXAMINATION OF GUY TRAVIS BY DEFENSE COUNSEL, RONALD FOREMAN

10:24 A.M. WITNESS EXCUSED.

WITNESS(ES) SWORN AND TESTIFIED: 10:25 A.M. DOUGLAS FERGUSON ON BEHALF OF PLAINTIFF.

DIRECT EXAMINATION OF DOUGLAS FERGUSON BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

RECESS DECLARED AT 10:47 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 11:00 A.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

DIRECT EXAMINATION OF DOUGLAS FERGUSON BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK CONTINUES.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #182 - LETTER DATED 10-12-2000 TO MR. BLATT.

11:15 A.M. - CROSS EXAMINATION OF DOUGLAS FERGUSON BY DEFENSE COUNSEL, JACQUELINE HAMILTON

07/19/2006 14:39

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2006
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CIV 020477

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #CC - LETTER TO MR. FERGUSON 9-20-01 #DD - MEMO BY TRAVIS BUILDERS, 10-4-01 #EE - MEMO BY TRAVIS BUILDER, 10-9-01 #FF - MEMO 10-8-01

11:30 A.M. CROSS EXAMINATION OF DOUGLAS FERGUSON BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

11:35 A.M. - RE-DIRECT EXAMINATION OF DOUGLAS FERGUSON BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK

11:36 A.M. RE-CROSS EXAMINATION OF DOUGLAS FERGUSON BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

WITNESS EXCUSED.

11:39 A.M. ALBERT DUFRESNE HERETOFORE SWORN, RECALLED FOR FURTHER DIRECT EXAMINATION BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

RECESS DECLARED AT 12 NOON FOR LUNCH

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 1:15 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

DIRECT EXAMINATION OF ALBERT DUFRESNE BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK CONTINUES.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #183 - PHOTO DATED 1-2-02

1:24 P.M. - CROSS EXAMINATION OF ALBERT DUFRESNE BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #GG - VIDEO #HH - PHOTO OF MR. POTTENGER POINTING TO FLOOR #II - PHOTO, GARAGE-PANELS

2:06 P.M. - CROSS EXAMINATION OF ALBERT DUFRESNE BY CROSS-DEFENDANT'S COUNSEL, JOSEPH RYAN.

2:18 P.M. - RE-DIRECT EXAMINATION OF ALBERT DUFRESNE BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

2:20 P.M. - RE-CROSS EXAMINATION OF ALBERT DUFRESNE BY DEFENSE COUNSEL, RONALD FOREMAN.

WITNESS EXCUSED.

WITNESS(ES) SWORN AND TESTIFIED: 2:25 P.M. MICHAEL BLATT UNDER 776 E.C. ON BEHALF OF PLAINTIFF

RECESS DECLARED AT 2:26 P.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 2:40 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

CROSS EXAMINATION OF MICHAEL BLATT BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

ALEXANDER ANOLIK READS FROM DEPOSITION TRANSCRIPT OF MICHAEL BLATT.

3:00 P.M. - DIRECT EXAMINATION OF MICHAEL BLATT BY DEFENDANT'S COUNSEL, RONALD FOREMAN.

3:07 P.M. - RE-CROSS EXAMINATION OF MICHAEL BLATT BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

WITNESS EXCUSED

PLAINTIFF RESTS

REGISTER OF ACTIONS

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07/19/2006 14:39 4157857771

GGLS

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2006
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CV 020477

WITNESS(ES) SWORN AND TESTIFIED: 3:10 P.M. HAROLD BRAY ON BEHALF OF DEFENDANT.

DIRECT EXAMINATION OF HAROLD BRAY BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #JJ - SUMMARY OF HAROLD BRAY'S JOB RECORD.

COURT ADJOURNED AT 4:00 P.M. FOR THE DAY

COURT REMINDED JURORS OF ADMONITION

HEARING CONTINUED TO: 02/20/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07 FROM DATE: 02/19/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JM

1/2 DAILY COURT REPORTER FEE PAID BY PLAINTIFF, CK #14161, \$150.00 AND JURY FEE PAID \$445.08. 1/2 DAILY COURT REPORTER FEE PAID BY DEFENDANT, CK # 13418 FOR \$150.00

2/20/2004

MINUTE ORDER POSTED - Appearance: 2/20/2004 at 09:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER KIM SCHROEDER, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND WITH PLAINTIFFS', JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT, MICHAEL BLATT.

ATTORNEY JOSEPH RYAN APPEARED FOR CROSS-DEFENDANT, SCHNABEL FOUNDATION COMPANY

THIS MATTER COMING ON REGULARLY FOR SIXTH DAY OF JURY TRIAL

COURT AND COUNSEL DISCUSS DEFENDANT'S MOTION OUT OF PRESENCE OF THE JURY

DEFENSE COUNSEL, RONALD FOREMAN SUBMITS MOTION FOR NON-SUIT AS TO CAUSES OF ACTION 3, 4, 5, AND 6, AND MOTION TO DISMISS DEFENDANT CATHERINE BLATT.

MOTION DENIED: DEFENDANT'S MOTION FOR NON-SUIT AS TO CAUSES OF ACTION 3, 4, AND 5.

IT IS ORDERED: MOTION RE: NON-SUIT AS TO CAUSE OF ACTION #6 AND DISMISSAL OF CATHERINE BLATT SUBMITTED. FURTHER ARGUMENT SHALL BE HEARD AT THE END OF THE DAY.

JURY IS NOW PRESENT IN OPEN COURT

AT 9:35 A.M.

WITNESS(ES) SWORN AND TESTIFIED: 9:35 A.M. - YOHAN STOCKLIN ON BEHALF OF DEFENDANT.

DIRECT EXAMINATION OF YOHAN STOCKLIN BY DEFENSE COUNSEL, JACQUELINE HAMILTON.

9:50 A.M. - CROSS EXAMINATION OF YOHAN STOCKLIN BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

WITNESS EXCUSED

RECESS DECLARED AT 10:25 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 10:30 A.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

WITNESS(ES) SWORN AND TESTIFIED: 10:32 A.M. - BRET FERRARI ON BEHALF OF DEFENDANT

REGISTER OF ACTIONS

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MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

DIRECT EXAMINATION OF BRET FERRARI BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #KK -PHOTO, FRAMING

DEFENDANT'S EXHIBIT(S) #KK - PHOTO, FRAMING PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

RECESS DECLARED AT 12:00 P.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 12:07 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

DIRECT EXAMINATION OF BRET FERRARI BY DEFENSE COUNSEL, RONALD FOREMAN CONTINUES.

12:45 P.M. - CROSS EXAMINATION OF BRET FERRARI BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

12:55 P.M. - CROSS EXAMINATION OF BRET FERRARI BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

COURT ADJOURNED AT 1:30 p.m. FOR THE DAY

HEARING CONTINUED TO: 02/24/2004 AT: 10:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07
FROM DATE: 02/20/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JM

1/2 DAILY COURT REPORTER FEE PAID BY PLAINTIFF, CK #14184 \$150.00 AND JURY FEES IN THE AMOUNT OF \$255.74. 1/2 DAILY COURT REPORTER FEE PAID BY DEFENDANT, CK # 13419 \$150.00.

2/23/2004

MINUTE ORDER POSTED

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

EX PARTE MINUTE ORDER COUNSEL APPEARS FOR RULING ON MOTIONS SUBMITTED. ALSO COUNSEL WORKS ON JURY INSTRUCTIONS AND VERDICT FORM.

ATTORNEY ALEXANDER ANOLIK AND JOHN CROSSFIELD APPEARED FOR PLAINTIFFS

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR DEFENDANT

MOTION GRANTED: DEFENDANT'S MOTION FOR DISMISSAL OF CATHERINE-BLATT AS TO CAUSES OF ACTION 3, 4 AND 5.

MOTION GRANTED: DEFENDANT'S MOTION FOR DISMISSAL OF IMPLIED WARRANTY CAUSE OF ACTION.

MOTION DENIED: DEFENDANT'S MOTION FOR DIRECTED VERDICT.

COUNSEL IS DIRECTED TO COMPLETE JURY INSTRUCTIONS AND JURY VERDICT FORM AND SUBMIT THEM TODAY.

ENTERED BY: JM

COUNSEL ARGUES OPPOSED JURY INSTRUCTIONS.

2/24/2004

MINUTE ORDER POSTED - Appearance: 2/24/2004 at 10:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER KIM SCHROEDER, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD, AND ALEXANDER PEVZNER, APPEARED FOR AND WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT, MICHAEL BLATT

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

ATTORNEY JOSEPH RYAN APPEARED FOR CRDF - SCHNABEL FOUNDATION COMPANY

THIS MATTER COMING ON REGULARLY FOR SEVENTH DAY OF JURY TRIAL

JURY IS NOW PRESENT IN OPEN COURT

AT 10 A.M.

BRET FERRARI RETURNS TO THE WITNESS STAND AND CROSS EXAMINATION CONTINUES BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: #184 - 5 GALLON DRUM - HYDRALINE 510.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #185 - 2 PHOTOS LABELED A & B #186 - 2 PHOTOS #187 - 2 PHOTOS LABELED A & B #188 - 2 PHOTOS LABELED A & B

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: #189 - PHOTO #190 - PHOTO #191 - ONE PAGE OF SIMPSON CATALOG

10:40 A.M. - RE-DIRECT EXAMINATION OF BRET FERRARI BY DEFENSE COUNSEL, RONALD FOREMAN.

11:00 A.M. - CROSS EXAMINATION OF BRET FERRARI BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

CROSS-DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #F-1 - GEOENGINEERING SUMMARY

11:18 A.M. RE-CROSS EXAMINATION OF BRET FERRARI BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: #192 - ENGINEERING CALCULATION #193 - PIECE OF RUBBER

11:28 A.M. - RE-DIRECT AT TIMES OF BRET FERRARI BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #LL - PRESENTATION (ANALYSIS)

WITNESS EXCUSED

RECESS DECLARED AT 11:30 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 11:35 A.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

WITNESS(ES) SWORN AND TESTIFIED: 11:37 A.M. - GILBERT OROSCO ON BEHALF OF DEFENDANT

DIRECT EXAMINATION OF GILBERT OROSCO BY DEFENSE COUNSEL, RONALD FOREMAN.

11:45 CROSS EXAMINATION OF GILBERT OROSCO BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: #194 - GROUP OF 7 PHOTOS.

11:56 A.M. RE-DIRECT EXAMINATION OF GILBERT OROSCO BY DEFENSE COUNSEL, RONALD FOREMAN.

11:59 A.M. RE-CROSS EXAMINATION OF GILBERT OROSCO BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

RECESS DECLARED AT 12:05 P.M. FOR LUNCH

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 1:15 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

GILBERT OROSCO RESUMES THE WITNESS STAND. RE-CROSS EXAMINATION BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK CONTINUES.

1:22 P.M. RE-DIRECT AT TIMES OF GILBERT OROSCO BY DEFENSE COUNSEL, RONALD FOREMAN.

WITNESS EXCUSED.

WITNESS(ES) SWORN AND TESTIFIED: 1:25 P.M. - DOUGLAS LYSTRA ON BEHALF OF DEFENDANT

DIRECT EXAMINATION OF DOUGLAS LYSTRA BY DEFENSE COUNSEL, RONALD FOREMAN.

1:40 P.M. - CROSS EXAMINATION OF DOUGLAS LYSTRA BY CROSS-DEFENDANT'S COUNSEL, JOSEPH RYAN.

1:43 P.M. CROSS EXAMINATION OF DOUGLAS LYSTRA BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

2:00 P.M. - RE-DIRECT EXAMINATION OF DOUGLAS LYSTRA BY DEFENSE COUNSEL, RONALD FOREMAN.

2:02 P.M. - RE-CROSS EXAMINATION OF DOUGLAS LYSTRA BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

WITNESS EXCUSED.

2:04 P.M. - HAROLD BRAY HERETOFORE SWORN, RECALLED TO CONTINUE DIRECT EXAMINATION BY DEFENSE COUNSEL, RONALD FOREMAN.

RECESS DECLARED AT 2:35 P.M. -

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 2:45 P.M. APPEARANCES AS NOTED. ALL JURORS AND ALTERNATE ARE PRESENT.

CROSS EXAMINATION OF HAROLD BRAY BY CROSS-DEFENDANT'S COUNSEL, JOSEPH RYAN

CROSS-DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #G-1 - MR. BRAY'S BILLING #H-1 - MR. BRAY'S DIARY

2:52 P.M. - CROSS EXAMINATION OF HAROLD BRAY BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: #195 - BLACK PIPE #196 - PARA DRAIN #197 - BLACK PIPE (HOLE IN MIDDLE) #198 - WHITE PIPE/BLACK WRAPPING.

CROSS-DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #I-1 - THIN PARA DRAIN

3:35 P.M. RE-DIRECT EXAMINATION OF HAROLD BRAY BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #MM - INVOICE, 2-15-99

3:38 P.M. RE-CROSS EXAMINATION OF HAROLD BRAY BY CROSS-DEFENDANT'S COUNSEL, JOSEPH RYAN

3:40 P.M. RE CROSS EXAMINATION OF HAROLD BRAY BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

3:42 P.M. RE-DIRECT AT TIMES OF HAROLD BRAY BY DEFENSE COUNSEL, RONALD FOREMAN.

WITNESS EXCUSED.

COURT ADJOURNED AT 3:45 P.M. FOR THE DAY

COURT REMINDED JURORS OF ADMONITION

HEARING CONTINUED TO: 02/25/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07
FROM DATE: 02/24/2004 FROM TIME: 10:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JM

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN		
JAMES GABBERT, ET AL Plaintiff(s) VS MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2006
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CIV 020477

1/2 DAILY COURT REPORTER FEE PAID BY PLAINTIFF, CK. #14169 \$150.00 AND JURY FEES OF \$222.54.

7/25/2004

MINUTE ORDER POSTED - Appearance: 2/25/2004 at 09:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT, MICHAEL BLATT

ATTORNEY JOSEPH RYAN APPEARED FOR CROF - SCHNABEL FOUNDATION COMPANY

THIS MATTER COMING ON REGULARLY FOR EIGHTH DAY OF JURY TRIAL

JURY IS NOW PRESENT IN OPEN COURT

AT 9:40 A.M.

JUROR #1 - BEVERLY ALEXANDER IS NOT PRESENT AND HAS BEEN EXCUSED FROM JURY SERVICE. ALTERNATE JUROR #2 - RUSSELL LYMAN IS SWORN AS JUROR #1.

WITNESS(ES) SWORN AND TESTIFIED: 9:42 A.M. - RONALD CHAPMAN ON BEHALF OF CROSS DEFENDANT.

DIRECT EXAMINATION OF RONALD CHAPMAN BY CROSS DEFENDANT'S COUNSEL, JOSEPH RYAN.

CROSS-DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #J-1 - LETTER 6-7-96 FROM SCHNABEL #K-1 - PROPOSAL FOR 475 BRIDGEWAY #L-1 - BURKE CONCRETE INVOICE #M-1 - PHOTOS

10:30 A.M. - CROSS EXAMINATION OF RONALD CHAPMAN BY PLAINTIFFS' COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: # 199 - LETTER FROM MR. CHAPMAN

10:45 A.M. CROSS EXAMINATION OF RONALD CHAPMAN BY DEFENSE COUNSEL, RONALD FOREMAN.

PLAINTIFFS' EXHIBIT(S) #199 - LETTER FROM RONALD CHAPMAN PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #NN - FAX FROM MR. CHAPMAN

WITNESS EXCUSED.

RECESS DECLARED AT 10:50 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 11:05 A.M. APPEARANCES AS NOTED. ALL JURORS ARE PRESENT.

WITNESS(ES) SWORN AND TESTIFIED: 11:10 A.M. JACK SCOTT ON BEHALF OF DEFENDANT.

DIRECT EXAMINATION OF JACK SCOTT BY DEFENSE COUNSEL, RONALD FOREMAN.

11:14 A.M. - VOIR DIRE OF JACK SCOTT RE: EXPERT WITNESS STATUS BY PLAINTIFF'S COUNSEL, ALEXANDER ANOLIK.

11:16 A.M. - DIRECT EXAMINATION OF JACK SCOTT BY DEFENSE COUNSEL, RONALD FOREMAN CONTINUES.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #OO - POSTER OF SUMMARY CHART #PP - POSTER #QQ - POSTER #RR - POSTER

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s)	DATE FILED: 1/29/2002
VS.	CASE TYPE: Civil Complaint
MICHAEL BLATT, ET AL Defendant(s)	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2005
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: #SS - 2-10-04 LETTER #TT - 2-10-04 LETTER

RECESS DECLARED AT 12:00 P.M. FOR LUNCH

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 1:15 P.M. APPEARANCES AS NOTED. DEFENDANT CATHERINE BLATT IS ALSO PRESENT IN COURT. ALL JURORS ARE PRESENT.

DIRECT EXAMINATION OF JACK SCOTT BY DEFENSE COUNSEL, RONALD FOREMAN CONTINUES.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #UU - SKETCH -REPAIR CHART

2:12 P.M. - CROSS EXAMINATION OF JACK SCOTT BY CROSS-DEFENDANT'S COUNSEL, JOSEPH RYAN

RECESS DECLARED AT 2:20 P.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 2:35 P.M. - APPEARANCES AS NOTED. ALL JURORS ARE PRESENT.

CROSS-EXAMINATION OF JACK SCOTT BY PLAINTIFFS COUNSEL, ALEXANDER ANOLIK.

PLAINTIFFS' EXHIBIT(S) MARKED FOR IDENTIFICATION: #200 - LETTER FROM LEFTER ENGINEERING

3:50 P.M. - RE-DIRECT EXAMINATION OF JACK SCOTT BY DEFENSE COUNSEL, RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) #OO - SUMMARY CHART (POSTER) #PP - SUMMARY CHART (POSTER) #QQ - SUMMARY CHART (POSTER) PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

DEFENDANT'S EXHIBIT(S) #RR - SUMMARY CHART (POSTER) PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

WITNESS EXCUSED.

COURT ADJOURNED AT 4:00 P.M. FOR THE DAY.

COURT REMINDED JURORS OF ADMONITION

HEARING CONTINUED TO: 02/26/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07 FROM DATE: 02/25/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JM

1/2 DAILY COURT REPORTER FEES PAID BY PLAINTIFF, CK # 14170, AND JURY FEES OF 240.54. 1/2 DAILY COURT REPORTER FEES PAID BY DEFENDANT FOR 2-24, 2-25 AND 2-26, CK # 13428 \$450.00.

2/26/2004

MINUTE ORDER POSTED - Appearance: 2/26/2004 at 09:00 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK JULIE WITHEY

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND WITH PLAINTIFF JAMES GABBERT AND MICHAEL LINCOLN

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANT MICHAEL BLATT

ATTORNEY JOSEPH RYAN APPEARED FOR CROSS DEFENDANT - SCHNABEL FOUNDATION COMPANY

THIS MATTER COMING ON REGULARLY FOR 9TH DAY OF CIVIL JURY TRIAL

COURT AND COUNSEL DISCUSS EXHIBITS OUT OF PRESENCE OF THE JURY

REGISTER OF ACTIONS

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JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2006
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CIV 020477

JURY IS NOW PRESENT IN OPEN COURT .

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # 201 : WEATHER FORECAST FROM INTERNET

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # 202 : METEOROLOGY REPORT

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # 203 : PHOTO - MAN HOLDING FLAG

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # 204 : PHOTO - MAN HOLDING FLAG

CROSS DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # N - 1 : GEOTECHNICAL ASSESSMENT DATED 2-5-96

CROSS DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # O - 1 : GEOTECHNICAL OBSERVATIONS DATED 10-8-97

CROSS DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # P - 1 : RESUME OF FRANK ROLLO

@ 9:40 A.M. JAMES GABBERT, PREVIOUSLY SWORN, RESUMES THE STAND ON DIRECT EXAMINATION UNDER 776 E.C. BY RONALD FOREMAN

@ 9:56 A.M. WITNESS EXAMINED ON CROSS EXAMINATION BY ALEXANDER ANOLIK

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # 205 : LARGE BOARD OF BLATT RESIDENCE

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: # 206 : INSPECTORS RECORDS

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: # 207 : COPIES OF FOUR CHECKS FROM CATHERINE AND MICHAEL BLATT

COUNSEL STIPULATES TO ADMITTING THE FOLLOWING EXHIBITS:

CROSS DEFENDANTS EXHIBIT(S) N-1, O-1, F-1 PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

WITNESS EXCUSED

COURT EXHIBIT(S) # 7 PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

WITNESS(ES) SWORN AND TESTIFIED: FRANK ROLLO @ 10:12 A.M. ON DIRECT EXAMINATION BY JOSEPH RYAN

CROSS DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION AND ADMITTED IN EVIDENCE: # P-1

RECESS DECLARED AT 10:45 A.M.

COURT RECONVENED AT 11:00 A.M.

JURY IS NOW PRESENT IN OPEN COURT

DIRECT EXAMINATION OF FRANK ROLLO CONTINUES BY JOSEPH RYAN

@ 11:05 A.M. WITNESS EXAMINED ON CROSS BY ALEXANDER ANOLIK

@ 11:10 A.M. WITNESS EXAMINED ON CROSS EXAMINATION BY RONALD FOREMAN

WITNESS EXCUSED

@ 11:23 A.M. MICHAEL BLATT RESUMES THE STAND, STILL UNDER OATH ON DIRECT EXAMINATION BY RONALD FOREMAN

DEFENDANT'S EXHIBIT(S) # MM PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

RECESS DECLARED AT NOON FOR LUNCH

JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2006
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CIV 020477

COURT REMINDED JURORS OF ADMONITION

1:20 P.M. - BACK ON THE RECORD. PARTIES AND COUNSEL PRESENT AS NOTED ABOVE. JURORS ALL PRESENT AND SEATED IN THEIR PLACES. CLERK IS NOW JULIE BENASSINI.

MICHAEL BLATT RESUMES THE STAND. DIRECT EXAMINATION BY RONALD FOREMAN CONTINUES.

1:31 P.M. CROSS EXAMINATION OF THE WITNESS BY ALEXANDER ANOLIK.

PLAINTIFF'S EXHIBIT(S) MARKED FOR IDENTIFICATION: #208 - BID FROM DE MELLO ROOFING #209 - FAX FROM BOOTH AND LITTLE "PROPOSAL AND CONTRACT"

2:30 P.M. CROSS EXAMINATION OF THE WITNESS BY JOSEPH RYAN. RE-DIRECT EXAMINATION BY RONALD FOREMAN.

DEFENDANT'S EXHIBIT(S) MARKED FOR IDENTIFICATION: VV - LETTER DATED 9/26/01 TO MICHAEL BLATT FROM AL DU FRESNE WW - LETTER DATED 9/27/01 TO AL DU FRESNE FROM MICHAEL BLATT

RE-CROSS EXAMINATION BY ALEXANDER ANOLIK.

DEFENDANT'S EXHIBIT(S) ADMITTED IN EVIDENCE: VV - LETTER; WW - LETTER

WITNESS IS EXCUSED.

HERETOFORE SWORN, RECALLED, TESTIFIES FURTHER IN REBUTTAL

JAMES GABBERT, HERETOFORE SWORN, RECALLED, TESTIFIES FURTHER IN REBUTTAL

CROSS EXAMINATION BY RONALD FOREMAN. CROSS EXAMINATION BY JOSEPH RYAN. THE WITNESS IS EXCUSED.

THE DEFENSE RESTS.

RECESS DECLARED AT 2:48 P.M. JURORS ONLY. TO RECONVENE TOMORROW, 2/27/04 AT 9:30 A.M.

COURT REMINDED JURORS OF ADMONITION

OUTSIDE THE PRESENCE OF THE JURY, COURT AND COUNSEL REVIEW JURY INSTRUCTIONS. COUNSEL DISCUSS THE EXHIBITS.

PLAINTIFF'S EXHIBIT(S) ADMITTED IN EVIDENCE: #116 THRU #131 (PHOTO'S) (TO BE RE-DACTED, THEN ADMITTED) #151 BASE PLATE #159 PLANS #171 THRU #174 PHOTOS; #190 AND #194 PHOTOS; #206 INSPECTOR'S RECORDS (TO BE RE-DACTED) #207 CHECKS; #208 AND #209 ROOFING BIDS

DEFENDANT'S EXHIBIT(S) ADMITTED IN EVIDENCE: B, C, D, G, H AND I PHOTOS J - ARTISTS RENDERING OF SITE T - DRAWING BB AND CC MM - INVOICE VV - LETTER WW - LETTER

CROSS-DEFENDANT'S EXHIBIT(S) ADMITTED IN EVIDENCE: #1 - 1 THIN PARA-DRAIN

RECESS DECLARED AT 4:45 P.M. AS TO COUNSEL.

HEARING CONTINUED TO: 02/27/2004 AT: 09:00 AM FOR APPEARANCE TYPE: TRLS IN DEPARTMENT: 07 FROM DATE: 02/26/2004 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: TRLS FROM DEPARTMENT: 07

ENTERED BY: JAB

2/27/2004

MINUTE ORDER POSTED - Appearance: 2/27/2004 at 09:30 AM for JURY TRIAL

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK, JOHN CROSSFIELD AND ALEXANDER PEVZNER APPEARED FOR AND WITH PLAINTIFFS, JAMES GABBERT AND MICHAEL LINCOLN

JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2006
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CIV 020477

ATTORNEY RONALD FOREMAN AND JACQUELINE HAMILTON APPEARED FOR AND WITH DEFENDANTS, CATHERINE BLATT AND MICHAEL BLATT.

ATTORNEY JOSEPH RYAN APPEARED FOR CROSS DEFENDANT, SCHNABEL FOUNDATION COMPANY

THIS MATTER COMING ON REGULARLY FOR TENTH DAY OF JURY TRIAL

JURY IS NOW PRESENT IN OPEN COURT

AT 9:30 A.M.

CLOSING ARGUMENT ON BEHALF OF THE PLAINTIFF

RECESS DECLARED AT 10:35 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 10:45 A.M. APPEARANCES AS NOTED. ALL JURORS PRESENT

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

RECESS DECLARED AT 11:35 A.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 11:45 A.M. APPEARANCES AS NOTED. ALL JURORS ARE PRESENT.

CLOSING ARGUMENT ON BEHALF OF CROSS DEFENDANT SCHNABEL FOUNDATION

FINAL ARGUMENT ON BEHALF OF THE PLAINTIFF

AT 12:26 P.M.

RECESS DECLARED AT 12:40 P.M.

COURT REMINDED JURORS OF ADMONITION

COURT RECONVENED AT 12:46 P.M. APPEARANCES AS NOTED.

COURT AND COUNSEL DISCUSS EXHIBITS OUT OF PRESENCE OF THE JURY

PLAINTIFFS EXHIBITS #151, #208 AND 209 PREVIOUSLY ADMITTED INTO EVIDENCE ARE WITHDRAWN.

PLAINTIFFS EXHIBIT(S) # 176 - PHOTO HVAC SYSTEM PREVIOUSLY IDENTIFIED ADMITTED IN EVIDENCE

ALL JURORS ARE PRESENT

COURT INSTRUCTS JURY

BAILIFF FORD IS DULY SWORN TO TAKE CHARGE OF THE JURY

1:25 P.M. A.M./P.M. JURY RETIRES TO DELIBERATE UPON A VERDICT

6:20 P.M. A.M./P.M. JURY RETURNS WITH VERDICT

COURT CLERK READS VERDICT IN OPEN COURT.

JURY POLLED

THE SPECIAL VERDICT IS ORDERED RECORDED.

JURORS THANKED AND EXCUSED

STIPULATION BY DEFENDANT AND CRDF TO RETURN THEIR EXHIBITS SIGNED.

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

JUDGMENT ON VERDICT IN OPEN COURT FILED.

COURT ADJOURNED AT 6:30 P.M.

CASE DISPOSED BY JURY TRIAL - AFTER EVIDENCE IN FAVOR OF PLAINTIFF

CASE DISPOSED IN ENTIRETY

ENTERED BY: JM

1/2 DAILY COURT REPORTER FEES FOR 2-26 AND 2-27 PAID BY PLAINTIFF, CK #14173 \$300.00 AND JURY FEES FOR 2-26 AND 2-27 \$4326.74.

3/2/2004 APPEARANCE DROPPED FOR 03/05/2004 AT: 09:00 AM FOR APPEARANCE TYPE: CMGT IN DEPARTMENT: 07
DROP REASON: BY MOTION GRANTED 3-2-04. CASE DISPOSED

3/15/2004 DEFT CLAIMED AND SIGNED FOR RELEASE OF EXHIBITS A THROUGH WW.

3/15/2004 PARTIAL DISMISSAL AS TO: CRCO, HAROLD BRAY, JR. ; WITH PREJUDICE

3/16/2004 STIPULATION AND ORDER FOR RELEASE OF EXHIBITS FILED THIS DATE

3/16/2004 PLAINTIFF'S PAYMENT OF JURY MEAL BILL, CK # 14219, \$93.96. DEFENDANT'S JURY MEAL BILL, CK# 15235 \$93.96.

3/16/2004 HEARING CONFIRMED FOR: 04/27/2004 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 07

3/16/2004 PARTIAL DISMISSAL AS TO: CRDF, 13-D FIRE SYSTEMS, INC. (6) ; REQUEST FOR DISMISSAL FILED 3-15-04

3/16/2004 PARTIAL DISMISSAL AS TO: CRDF, CATHERINE (6) BLATT ; REQUEST FOR DISMISSAL FILED 3-15-04

3/16/2004 PARTIAL DISMISSAL AS TO: CRDF, MICHAEL (6) BLATT ; REQUEST FOR DISMISSAL FILED 3-15-04

3/16/2004 PARTIAL DISMISSAL AS TO: CRDF, JEFFERY IVERSEN ; REQUEST FOR DISMISSAL FILED 3-15-04

3/16/2004 PARTIAL DISMISSAL AS TO: CRDF, TRAVIS BUILDERS, INC. (6) ; REQUEST FOR DISMISSAL FILED 3-15-04

3/17/2004 PLTF CLAIMED AND SIGNED FOR RELEASE OF EXHIBITS 101-209

3/23/2004 MEMORANDUM OF COSTS FILED (SUMMARY) BY ATTY. FOR PLTF. FOR TOTAL COSTS OF \$37,111.06

3/25/2004 SATISFACTION OF JUDGMENT FILED. (FULL) BY ATTY. HARRIS FOR PETER-KANE; DEBTOR, JAMES GABBERT AND MICHAEL LINCOLN C/O NEXT CENTURY ENTERPRISES, 125 SECOND ST., SAUSALITO, CA 94965

3/29/2004 1/2 DAILY COURT REPORTER FEE PAID BY DEFENDANT'S COUNSEL, CK# 54414, \$150.00 FOR 2-27-04

4/23/2004 HEARING CONFIRMED FOR: 05/04/2004 AT: 09:00 AM FOR APPEARANCE TYPE: LMCV IN DEPARTMENT: 07

4/27/2004 MINUTE ORDER POSTED - Appearance: 4/27/2004 at 09:00 AM for NOTICE OF MOTION

JUDGE/PROTEM/REFEREE LYNN DURYEE, REPORTER DEBORAH BARTUNEK, DEP CLK J. MINKIEWICZ

ATTORNEY ALEXANDER ANOLIK APPEARED FOR PLAINTIFF

ATTORNEY JACQUELINE HAMILTON APPEARED FOR DEFENDANT

ATTORNEY RONALD FOREMAN APPEARED FOR DEFENDANT

ATTORNEY JOSEPH RYAN APPEARED FOR CROSS-DEFENDANT

MOTION(S) HEARD AND ARGUED.

SUBMITTED.

JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED:	1/29/2002
	CASE TYPE:	Civil Complaint
	CASE SUBTYPE:	Breach of Contract
	DATE OF LAST ACTIVITY:	3/1/2006
	DATE/TIME RUN:	7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER:	CIV 020477

THE TENTATIVE RULING IS AFFIRMED AND MADE FINAL.

IT IS ORDERED: PLAINTIFF'S COUNSEL IS SANCTIONED \$149.00 FOR ITS LATE FILING OF OPPOSITION PAPERS.

MOTION DENIED : DEFENDANT'S MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT IS DENIED.

THE JURY DID NOT AWARD A DOUBLE RECOVERY. THE JUDGMENT IS ADJUSTED BY THE FINDING OF COMPARATIVE NEGLIGENCE AND THE PRETRIAL SETTLEMENT TO THE SUM OF \$144, 428.60.

MOTION GRANTED : PLAINTIFF'S MOTION FOR ATTORNEY'S FEES IS GRANTED IN THE SUM OF \$286,669.

MR. ANOLIK SHALL SUBMIT ORDER CONSISTANT WITH THE COURT'S RULING.

HEARING AFTER TRIAL

ENTERED BY: JM

5/4/2004 MINUTE ORDER POSTED - Appearance: 5/4/2004 at 09:00 AM for MOTION TO TAX COSTS
JUDGE/PROTEM/REFEREE LYNN DURYEE , REPORTER NOT REPORTED , DEP CLK J. MINKIEWICZ
NO APPEARANCE BY OR FOR THE PARTIES

THE MATTER IS NOT HEARD OR REPORTED. THE TENTATIVE RULING IS FINAL.

MOTION GRANTED : DEFENDANTS' MOTION TO TAX COSTS IS GRANTED IN PART. CROSS-DEFENDANT SCHNABEL'S JOINDER IN THE MOTION IS GRANTED.

*** SEE CASE FILE FOR COPY OF RULING ON AWARDED COSTS ***

HEARING AFTER TRIAL

ENTERED BY: JM

5/14/2004 APPEARANCE MOVED TO: 05/04/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CSCM IN DEPARTMENT: Z7
MOVE REASON: RECENT ACTIVITY FROM DATE: 09/02/2004 FROM TIME: 09:30 AM FROM APPEARANCE TYPE: CSCM FROM DEPARTMENT: Z7

5/27/2004 SANCTIONS PAID BY: ATTY ANOLIK, \$398.00

6/30/2004 IT IS ORDERED: (AMENDED) JUDGMENT ON VERDICT IN JURY TRIAL. HON. LYNN DURYEE

7/9/2004 NOTICE OF APPEAL FILED BY DEFEDANTS MICHAEL BLATT AND CATHERINE BLATT (SEE NOA) - FILED - \$100 PAID.

7/12/2004 Clerk's Notice Of Filing Notice Of Appeal - FILED.

8/18/2004 CROSS DEFENDANT'S EXHIBITS (A-1 THROUGH P-1) SUBMITTED TO EXHIBIT DEPT. THIS DATE. JASON BAKER CHECKED AND RECEIVED EXHIBITS.

9/27/2004 SATISFACTION OF JUDGMENT FILED. (FULL) FILED BY RONALD D. FOREMAN, ATTORNEY FOR DEFT. JUDGMENT DEBTORS TO BE FULLY RELEASED: MICHAEL & CATHERINE BLATT, 475 BRIDGEWAY, SAUSALITO, CA 94965

10/1/2004 APPEARANCE MOVED TO: 07/11/2006 AT: 09:00 AM FOR APPEARANCE TYPE: CSCM IN DEPARTMENT: Z7
MOVE REASON: NEW Z7 DATE FROM DATE: 05/04/2005 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CSCM FROM DEPARTMENT: Z7

11/15/2004 REMITTITUR FILED. A107160: APPELLANT HAVING FAILED TO PROCURE THE RECORD ON APPEAL WITHIN THE TIME ALLWED OR WITHIN ANY VALID EXTENSIONS OF TIME, AND HAVING FAILED TO SHOW GOOD CAUSE FOR RELIEF FROM DEFAULT, THE APPEAL FILED JULY 9, 2004, IS DISMISSED.

MARIN SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN	
JAMES GABBERT, ET AL Plaintiff(s) VS. MICHAEL BLATT, ET AL Defendant(s)	DATE FILED: 1/29/2002
	CASE TYPE: Civil Complaint
	CASE SUBTYPE: Breach of Contract
	DATE OF LAST ACTIVITY: 3/1/2006
	DATE/TIME RUN: 7/19/2006 12:45pm
REGISTER OF ACTIONS	CASE NUMBER: CIV 020477

11/15/2004 APPEARANCE MOVED TO: 11/15/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CSCM IN DEPARTMENT: Z7
 MOVE REASON: (JC) FROM DATE: 07/11/2006 FROM TIME: 09:00 AM FROM APPEARANCE TYPE: CSCM FROM
 DEPARTMENT: Z7

3/25/2005 LETTER SENT TO ATTY RYAN. EXHIBITS TO BE PICKED UP BY MAY 25, 2005

1/11/2006 APPEARANCE DROPPED FOR 11/15/2005 AT: 09:00 AM FOR APPEARANCE TYPE: CSCM IN DEPARTMENT: Z7
 DROP REASON: BOX JUDGMENT

3/1/2006 EXHIBITS DESTROYED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

Liberty Mutual Insurance Company,	)	Case No.: C 06 2022 SC
	)	[Assigned to the Honorable Samuel Conti]
Plaintiff,)	
	)	[PROPOSED] ORDER GRANTING
vs.	)	LIBERTY MUTUAL INSURANCE
	)	COMPANY'S APPLICATION FOR
Michael T. Blatt,	)	DEFAULT JUDGMENT BY COURT
	)	AGAINST MICHAEL T. BLATT
Defendant.)	
)	

IT IS HEREBY ORDERED that Liberty Mutual Insurance Company's ("Liberty") Application for Default Judgment against Michael T. Blatt ("Blatt") is GRANTED. This court finds the following:

- (1) Liberty was not obligated under its policy to pay for defense fees and expenses solely attributable to prosecuting the Blatt cross-complaint in the underlying Gabbert Action;
- (2) Liberty was not obligated under its policy to pay for defense fees and expenses incurred in procuring coverage for Blatt in the Gabbert Action;

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///

(3) Liberty was not obligated under its policy for defense fees and expenses incurred in the defense of Michael Blatt after February 27, 2004 when the verdict in Schnabel's favor was rendered;

(4) Liberty was not obligated under its policy to pay \$300,303.85, the fees and costs taxed against defendant Blatt in the Gabbert Action; and

(5) Liberty is entitled to recover defense fees and costs in the total amount of \$315, 409.98 from defendant Blatt.

THEREFORE, Liberty is entitled to judgment in the amount of \$315,409.98.

DATED: _____

By: _____
The Honorable Samuel Conti
Judge of the United States District Court

[Respectfully submitted:
Ronald J. Skocypec, Esq., Bar No.: 072690
Melodee A. Yee, Esq., Bar No.: 168541
PETERSON & BRADFORD, LLP
100 North First Street, Suite 300
Burbank, CA 91502
818.562.5800
818.562.5810 – Facsimile

Attorneys for Plaintiff
LIBERTY MUTUAL INSURANCE COMPANY]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

Liberty Mutual Insurance Company,	)	Case No.: C 06 2022 SC
	)	[Assigned to the Honorable Samuel Conti]
Plaintiff,)	
	)	[PROPOSED] JUDGMENT IN FAVOR
vs.	)	OF LIBERTY MUTUAL INSURANCE
	)	COMPANY AND AGAINST MICHAEL T.
Michael T. Blatt,	)	BLATT
)	
Defendant.)	

JUDGMENT IS HEREBY HELD IN FAVOR OF Plaintiff Liberty Mutual Insurance Company against Defendant Michael T. Blatt in the amount of \$315,409.98.

DATED: _____

By: _____
The Honorable Samuel Conti
Judge of the United States District Court

[Respectfully submitted by:
Ronald J. Skocypec, Esq., Bar No.: 072690
Melodee A. Yee, Esq., Bar No.: 168541
PETERSON & BRADFORD, LLP
100 North First Street, Suite 300
Burbank, CA 91502
818.562.5800
818.562.5810 – Facsimile
Attorneys for Plaintiff, LIBERTY MUTUAL INSURANCE COMPANY]